

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

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4 MARIA SUAREZ,

5 Plaintiff,
6 Case No.
-against- 2:19-cv-07271-GRB-SIL

7 SOUTHERN GLAZER'S WINE AND SPIRITS,
8 LLC,

9 Defendant.

10 -----x

11 November 11, 2021
12 10:25 a.m.

13 Videotaped deposition of MARIA SUAREZ,
14 taken by Defendant, pursuant to Order and
15 stipulations between Counsel, at the offices
16 of Constangy, Brooks, Smith & Prophete, LLP,
17 101 6th Avenue, New York, New York, before
18 Jessica R. Taft, a Shorthand Reporter and
19 Notary Public of the State of New York.

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2 STIPULATIONS

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4 IT IS HEREBY STIPULATED AND AGREED, by
5 and between counsel for the respective
6 parties hereto, that all objections, except
7 as to form, are reserved to the time of
8 trial.

9 IT IS FURTHER STIPULATED AND AGREED
10 that the deposition may be signed and sworn
11 to before any officer authorized to
12 administer an oath.

13 IT IS FURTHER STIPULATED AND AGREED
14 that the sealing and filing of the
15 deposition be waived.

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2 APPEARANCES:

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4 MOSER LAW FIRM, P.C.

5 Attorneys for Plaintiff

6 5 E. Main Street

7 Huntington, New York 11743

8 BY: STEVEN MOSER, ESQ.

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10 CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

11 Attorneys for Defendant

12 101 6th Avenue

13 New York, New York 10013

14 BY: ANJANETTE CABRERA, ESQ.

15

16 PRESENT:

17 ANDREW GEDACHT, Videographer

18 LAUREN O'CONNOR, audio only, in-house

19 counsel for Defendant Southern Glazer's

20 Wine and Spirits, LLC

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2 THE VIDEOGRAPHER: Here begins
3 media number one in the deposition of
4 Maria Suarez in the matter of Maria
5 Suarez v. Southern Glazer's Wine and
6 Spirits of New York, LLC, in the U.S.
7 District Court, Eastern District of New
8 York, Case Number 219-CV-07271-
9 GRB-SIL.

10 Today's date is November 11,
11 2021, the time is 10:52 (sic) a.m.
12 This deposition is being taken at
13 Constangy, Brooks, Smith & Prophete,
14 LLP, 101 6th Avenue, New York, New
15 York.

16 I'm Andrew Gedacht, the
17 videographer, and the court reporter is
18 Jessica Taft from Pirozzi and Hillman,
19 New York, New York.

20 Counsel, please identify
21 yourselves and state whom you
22 represent.

23 MR. MOSER: Steven Moser for the
24 plaintiff.

25 MS. CABRERA: Anjanette Cabrera

1 Suarez
 2 for Southern Glazer's Wine and Spirits.
 3 MARIA SUAREZ,
 4 the Witness herein, having first been
 5 duly sworn by the Notary Public, was
 6 examined and testified as follows:

7 MS. CABRERA: Before we get
 8 started, just for the record, on the,
 9 on the phone listening but won't be
 10 speaking or appearing is in-house
 11 counsel for the company, Lauren
 12 O'Connor.

13 EXAMINATION

14 BY MS. CABRERA:

15 Q. Good morning, Ms. Suarez.

16 A. Good morning.

17 Q. My name is Anjanette Cabrera, and
 18 I represent Southern Glazer's Wine and
 19 Spirits. And we are here today to take
 20 your deposition.

21 A. (Thereupon, the witness nods in
 22 the affirmative.)

23 Q. Before we begin the questioning,
 24 I just want to go over a couple of ground
 25 rules with you, okay?

6 Suarez

2 A. (Thereupon, the witness nods in
 3 the affirmative.)

4 Q. So, do you understand that you're
 5 under oath today?

6 A. Yes.

7 Q. And you understand that that
 8 means that you are obligated to tell the truth?

9 A. Yes.

10 THE VIDEOGRAPHER: We are going
 11 off the record. The time is 10:27 a.m.
 12 This is the end of media number one.

13 (Thereupon, a discussion was held
 14 off the record.)

15 THE VIDEOGRAPHER: We are back on
 16 the record. The time is 10:28 a.m.

17 This is the start of media number two.

18 BY MS. CABRERA:

19 Q. So the most important person in
 20 the room today is the court reporter.
 21 Okay? We want to make sure that she can
 22 hear my question and we also want to make
 23 sure that she can hear your answer. So
 24 please make sure that all of your answers
 25 are verbal. Okay?

1 Suarez

2 A. Okay.

3 Q. And also make sure that you can
 4 speak up so she can properly take down what
 5 you say and the videographer here can, can
 6 capture what it is that you are saying.

7 Okay?

8 A. Okay.

9 Q. If you don't understand the
 10 question, please tell me, and I will do the
 11 best to rephrase it.

12 A. All right.

13 Q. Okay? If you simply answer the
 14 question, my assumption is going to be that
 15 you understood the question as I posed it.

16 Do you understand that?

17 A. Yes.

18 Q. I'm going to be giving you some
 19 documents to look at today. Okay? Um, we
 20 refer to them as exhibits. When I give
 21 them to you, I want you to take as much
 22 time as you feel you need to review the
 23 document before I start questioning you.

24 Okay?

25 A. Yes.

6 Suarez

2 Q. We were discussing -- before we
 3 got on the record, we were discussing a
 4 lunch break, okay? In addition to a lunch
 5 break, if you need to take a break, you
 6 just let us know. Okay? You can take as
 7 many breaks as you need. There is not a
 8 limit on your breaks. The only rule with
 9 regard to breaks is that you cannot take a
 10 break if there is a question pending.

11 Okay?

12 A. Sure.

13 Q. So what that means, for example,
 14 is if I ask you a question, I will need you
 15 to answer that question and then you can
 16 take a break.

17 Is there any reason why you can't
 18 testify truthfully today?

19 A. No.

20 Q. Are you under the influence of
 21 any drugs or alcohol that would impair --

22 A. No.

23 Q. -- your ability?

24 What did you do to prepare for
 25 your deposition today?

1 Suarez
2 A. I talked to my attorney.

3 Q. And to be clear, I don't want to
4 know about anything you talked to your --

5 A. Yes.

6 Q. -- attorney about, okay?

7 Um, how long did you talk to your
8 attorney?

9 A. Approximately one hour yesterday
10 and maybe half an hour today.

11 Q. And did you review any documents?

12 A. I reviewed some documents this
13 morning.

14 Q. And what were the documents that
15 you reviewed?

16 A. It was the documents that I
17 signed with my attorney previously. I
18 don't remember the name of the, of the
19 document.

20 Q. Do you remember if it was the
21 complaint?

22 A. The complaint.

23 Q. Okay. Did you look at anything
24 else besides the complaint?

25 A. No, I did not.

1 Suarez
2 A. Yes.

3 Q. Have you ever been involved in
4 any sort of criminal case?

5 A. No.

6 Q. Aside from this case that we are
7 going to talk about today, have you ever
8 been involved in any civil litigation?

9 A. No.

10 Q. So you never sued anybody else?

11 A. No, I have not.

12 Q. Has anyone sued you?

13 A. No.

14 Q. Aside from your deposition
15 testimony in the Sanjous matter, have you
16 ever been a witness in a case?

17 A. I'm sorry, can we go back one
18 question?

19 Q. Sure.

20 A. If anybody sued me?

21 Q. Yes.

22 A. Um, I think there was a civil
23 case, but I don't remember, like, a long,
24 long time ago when I was on vacation,
25 vacation here in New York City. I had one

10

12

1 Suarez
2 Q. Did you talk to anyone else

3 beside your lawyer about your deposition
4 today?

5 A. I text a friend that I was coming
6 to the city this morning.

7 Q. And where do you live, Ms. Suarez?

8 A. Uniondale, Long Island.

9 Q. And what is your marital status?

10 A. Divorced.

11 Q. Do you have any children?

12 A. No.

13 Q. And what's your highest level of
14 education? What's the last school you
15 completed?

16 A. I completed six years of
17 university in Ecuador, which is equivalent
18 here to a bachelor's degree.

19 Q. Okay. Were you born in Ecuador?

20 A. Yes.

21 Q. When did you come to the United
22 States?

23 A. In the year 2000, to live.

24 Q. Okay. And have you always lived
25 in Uniondale?

1 Suarez
2 of those memberships to a gym.

3 Q. Okay.

4 A. And I think that ended in some --
5 I never attended. I don't know what
6 happened, but, um, on my credit report
7 appeared.

8 Q. Got it. Okay. Did they enter a
9 judgment against you on your credit report?

10 A. Yes, I think so.

11 Q. Got it. Okay, okay. Thank you
12 for clarifying that.

13 A. Yeah. It was hard to remember
14 that at the start.

15 Q. Understood.

16 Um, and so my question, the next
17 question I was asking you: Aside from your
18 deposition in the Sanjous case, have you
19 ever been a witness in a case before?

20 A. No, I have not.

21 Q. So that was your only experience?

22 A. Yes.

23 Q. Have you ever been involved in
24 any proceeding with the Equal Employment
25 Opportunity Commission?

1 Suarez

2 A. I had an interview with
3 Ms. Selana. I don't know if that counts
4 for involvement.

5 Q. Got it. Are you talking about --
6 I'm sorry. Explain to me who Ms. Selana,
7 what you spoke to Ms. Selana about.

8 A. I don't have the records. It was
9 a long time ago. But I responded to the
10 questions that she asked me. I don't
11 remember the specifics.

12 Q. Okay. Was it, in general, about
13 the same, the same things about this case?
14 Do you remember if that was the subject
15 matter?

16 A. I think it was a complaint by
17 Josie. But I'm sorry, I don't remember
18 specifics.

19 Q. Okay. But Ms. Selana was with
20 the Equal Opportunity Employment
21 Commission?

22 MR. MOSER: Objection as to form.
23 BY MS. CABRERA:

24 Q. You can answer.

25 A. I don't know.

14

1 Suarez

2 Q. Okay. Do you remember when you
3 spoke to her?

4 A. Maybe in 2013, 2014. I don't
5 remember.

6 Q. Got it. Okay.

7 Have you ever been involved in a
8 proceeding with the New York State Division
9 of Human Rights?

10 A. No, I have not.

11 Q. And aside from this case here,
12 aside from the letter that your attorney
13 sent to Southern Glazer's, have you ever
14 sent a demand letter to anyone?

15 A. No, I have not.

16 Q. Have you ever filed for bankruptcy?

17 A. No, never.

18 Q. Ms. Suarez, when did you begin
19 working for Premier Wines?

20 A. April 2000.

21 Q. And what was your role at Premier
22 Wines?

23 A. Payroll, payroll clerk,
24 administrator. I'm not sure right now. I
25 don't remember exactly the title.

1 Suarez

2 Q. Okay. Why don't you tell me what
3 you did. What were your duties and
4 responsibilities?

5 A. Processed all timecards,
6 timesheets, entered hours, um, processed
7 payments through ADP.

8 THE REPORTER: Did you say ADP or
9 ADT?

10 THE WITNESS: ADP, sorry.

11 THE REPORTER: I just want to
12 make sure I heard you correctly.

13 THE WITNESS: Processed
14 timesheets, taxes, help processing
15 commissions, sales commissions, um,
16 process all payables, you know, from
17 the payroll deductions.

18 BY MS. CABRERA:

19 Q. Okay.

20 A. Reporting to accounting payroll,
21 all payroll, um, payroll-related, um,
22 accounts, like, we did it daily and weekly
23 and also monthly for the month's end.

24 Q. Okay. And did you earn a salary?

25 A. Yes.

16

1 Suarez

2 Q. And did you earn overtime in that
3 position?

4 A. No, I did not.

5 Q. Did you have, um, anyone that was
6 reporting to you in that position?

7 A. No, I didn't.

8 Q. And who did you report to?

9 A. Alicia Diaz. I think her title
10 was director, director of HR at the moment,
11 at that point.

12 Q. And did there come a time where
13 your job changed?

14 A. Yes.

15 Q. And when was that?

16 A. It was in 2004, if I remember
17 correctly. Um, they -- warehouse payroll
18 or the personnel in the warehouse grew
19 substantially.

20 Q. Okay.

21 A. Especially drivers and helpers.
22 And we needed a person, or they needed a
23 person to take care of only warehouse
24 payroll.

25 Q. Okay.

1 Suarez
2

3 A. So I was working with the
4 director of operations at that point. I
5 was moved to the warehouse to work with the
6 director of operations.

7 Q. And did you become an
8 administrative assistant in payroll --

9 A. Yes.

10 Q. -- at that time?

11 And now was -- was your employer
12 still Premier Wines or was it Southern
13 Glazer's Wine and Spirits at that time?

14 A. I think it was Premier Wines,
15 and, and shortly in December of 2004 it
changed to Southern Wines.

16 Q. And when it changed to Southern
17 Glazer's Wine and Spirits, did your
18 position change or you remained as the
19 administrative assistant in payroll for the
20 warehouse?

21 A. I remained in that position.

22 Q. And where was that job located?

23 A. With Premier, I have an office
24 next to the director of operations' office,
25 um, in the main warehouse office. It was

18 Suarez
2

3 called just warehouse office.

4 Q. Okay.

5 A. And then when Southern took over
6 in December 2004, I was moved to the Blue
7 Room Number 2.

8 Q. Okay. And where was the main
warehouse office located, what city?

9 A. What city?

10 Q. Yes.

11 A. Syosset.

12 Q. And just to take a step back,
13 when you started with Premier Wines, was
14 that also in Syosset?

15 A. Yes.

16 Q. Okay. So, you said you were
17 moved to Blue Room Number 2, is that
18 correct?

19 A. Yes.

20 Q. And what were your job duties?

21 A. Mainly payroll. But shortly I
22 started, um, helping the sales force with
23 questions about product, about inventory,
24 but my title didn't change.

25 Q. And who were you reporting to

1 Suarez
2

3 directly?

4 A. First Mike Capaldo and then, um,
5 with Southern, a new director of operations
came along. And I don't remember his name.

6 Q. And when you say that you were
7 doing payroll, was it the same
8 responsibilities that you explained to me
9 that you had when you had the job with
10 Premier Wines? Is that what you mean by
11 doing payroll?

12 A. No. I did only hours and PTOs
13 and, um, make everything, like, easier for
14 the payroll department to take the
15 warehouse information.

16 Q. And what do you mean by "hours"?

17 A. Process the time records. I
18 printed the, the timesheets. You know, I
19 processed the timesheets. At that point,
20 there was no more timecards, so I processed
21 the timesheets. I got the signatures from
22 supervisors authorizing overtime, and I
23 send the information to payroll to process
24 the, the payments.

25 Q. Did you have to fill out a

18 Suarez
2

3 timesheet for yourself?

4 A. I don't remember.

5 Q. Do you remember if you were paid
6 a salary or if you were paid on an hourly
basis?

7 A. With Premier, I was paid a
8 salary. I was hired for a 35-hour week, a
9 salary person.

10 With Southern, many things
11 changed, but I don't remember exactly. Um,
12 I don't remember at what point I was made
13 hourly. Um, I was asked to join the union.
14 I never did, but I don't remember exactly
15 when this happened. But for a few months I
16 was not salary; I was paid by the hour.

17 Q. For a few months when Southern
18 took over?

19 A. I think so.

20 Q. And -- well, strike.

21 Okay. And again, as the
22 administrative assistant in payroll at the
23 point that Southern took over, right -- so
24 we're talking, I think you said it was
25 around December 2004 -- did you have any

1 Suarez
 2 direct reports reporting to you?
 3 A. No, I did not.
 4 Q. Okay. And did there come a time
 5 that your, that your job changed from
 6 administrative assistant and payroll?
 7 A. I'm sorry? Repeat the question.
 8 Q. Did there come a time where your
 9 job changed from administrative assistant
 10 and payroll?
 11 A. I'm sorry, I don't understand the
 12 question.
 13 Q. Okay. Were you promoted to
 14 inventory supervisor, inventory control
 15 manager?
 16 A. In July 2007, I was promoted to
 17 inventory control manager. I'm sorry,
 18 inventory -- inventory manager warehouse.
 19 That was my title.
 20 Q. Okay. Inventory manager
 21 warehouse, okay.
 22 And where was that job located?
 23 A. I just stayed at my desk in the
 24 Blue Room Number 2.
 25 Q. And that was in Syosset, correct?

1 Suarez
 2 A. Yes, Robert Half.
 3 Q. Robert Half?
 4 A. Yes.
 5 Q. Okay. In this role, were you
 6 responsible for managing inventory control?
 7 A. Yes.
 8 Q. Did you have the ability to hire
 9 Josie?
 10 A. Josie was already hired, working
 11 for the previous inventory control manager.
 12 Q. Did you have the authority to
 13 fire Josie?
 14 A. Yes.
 15 Q. Did you give Josie performance
 16 evaluations?
 17 A. No. She was a union employee.
 18 Q. Did you provide her with feedback
 19 on how she was doing her job?
 20 A. Yes.
 21 Q. Were you responsible for
 22 correcting her if she was doing her job
 23 incorrectly?
 24 A. Yes.
 25 Q. Were you performing office work

22
 1 Suarez
 2 A. Yes.
 3 Q. And what were your job duties?
 4 A. The first directive given to me
 5 was to fix the inventory.
 6 We had at that point, I think, a
 7 good \$10 million of inventory lost.
 8 Q. And who were you reporting to at
 9 that time?
 10 A. To John Wilkinson.
 11 Q. And did you have any direct
 12 reports reporting to you?
 13 A. Yes.
 14 Q. And who were they?
 15 A. I had one.
 16 Q. And who was that?
 17 A. Josie Sajoeus.
 18 Q. Did there come a time -- I'm
 19 sorry.
 20 A. In payroll. And I had six people
 21 from an agency working for me and with Josie.
 22 Q. So, Josie was a Southern --
 23 A. Employee.
 24 Q. -- employee. And the other six
 25 were from a staffing agency?

24
 1 Suarez
 2 at this time?
 3 A. Yes, mostly.
 4 Q. Mostly?
 5 A. Uh-huh.
 6 Q. And as the -- was the position
 7 renamed inventory control manager?
 8 A. Inventory manager warehouse.
 9 Q. Inventory manager warehouse.
 10 Did you report to anyone besides
 11 John at this time?
 12 A. I reported directly to him. But
 13 many times I got phone calls from the VP of
 14 operations, from the sales force, from
 15 marketing, and I actually -- I treated,
 16 like, everybody like my boss. I, I got
 17 results from, for them.
 18 Q. And was it up to you to decide --
 19 when you received these calls from
 20 different people --
 21 A. Uh-huh.
 22 Q. -- was it up to you to decide,
 23 you know, who you were going to prioritize
 24 first?
 25 A. Yes.

1 Suarez
 2 Q. And did you have to exercise
 3 independent judgment to make those decisions?
 4 A. Yes.
 5 Q. Did you train anyone?
 6 A. Yes.
 7 Q. And were you paid a salary for
 8 this position?
 9 A. Yes.
 10 Q. And again, I want to switch
 11 specifically to this position, okay? Did
 12 you work weekends?
 13 A. Yes.
 14 Q. And were you given additional
 15 compensation for working weekends?
 16 A. I did not until 2017.
 17 Q. And who did John report to at
 18 this time?
 19 A. To the VP of operations, Greg
 20 Risley.
 21 Q. And I think you said you had a
 22 total of seven people reporting to you,
 23 Josie and then six Robert Half --
 24 A. At one point, ten people. But I
 25 ended up -- when I resolve all these issues

1 Suarez
 2 A. Yes.
 3 Q. Okay. And what do you recognize
 4 it to be?
 5 A. It's a performance evaluation.
 6 Q. And this is your performance
 7 evaluation, correct?
 8 A. Yes.
 9 Q. I'm going to ask you to turn to
 10 the last page, 707.
 11 Is that your signature?
 12 A. Yes, it is.
 13 Q. And how was this given to you?
 14 MR. MOSER: Objection as to form.
 15 BY MS. CABRERA:
 16 Q. Do you understand the question?
 17 A. Yes. But I don't remember.
 18 Q. Okay. Do you remember if you
 19 were given this evaluation as this piece of
 20 paper as I have given it to you today?
 21 A. Or sent by email. I don't
 22 remember.
 23 Q. And who gave it to you?
 24 A. John Wilkinson.
 25 Q. And did he have any discussion

26
 1 Suarez
 2 of lost inventory that I, you know, took
 3 down in the beginning, it took me three
 4 months and then six months to resolve
 5 everything. I hired three more people. So
 6 my staff was four people, all Southern
 7 employees.
 8 Q. And who were those four people?
 9 A. After Josie, I hired Ena, then
 10 Tatyana and then Justin.
 11 MS. CABRERA: Okay. I'm going to
 12 give you what has been marked as
 13 Exhibit 1.
 14 (Thereupon, the document was
 15 marked Defendant's Exhibit 1 for
 16 identification, as of this date.)
 17 BY MS. CABRERA:
 18 Q. As I said in the beginning, I
 19 want you to take a look at it, okay? It is
 20 a document at the bottom Bates stamped 2618
 21 to 2624. It's about six, seven pages.
 22 Please look at it and let me know when you
 23 are ready to proceed. Okay?
 24 A. Okay, finished.
 25 Q. Do you recognize Exhibit 1?

28
 1 Suarez
 2 with you about it?
 3 A. I don't remember. Probably.
 4 Q. Going back to the direct reports
 5 that we were just talking about --
 6 A. Uh-huh.
 7 Q. -- I believe you said it went
 8 from Josie, one person, and then you hired
 9 three additional people, and you had a team
 10 of four.
 11 With regard to those four people,
 12 can you describe what you had to do each
 13 day to manage them as your direct reports?
 14 A. I assigned work to them. I
 15 review, I accepted or discarded their
 16 findings. And I trained them to analyze
 17 their part of the inventory. I divided
 18 inventory by, in alphabetical order, and I
 19 assigned items to be monitored by them.
 20 Q. When you say that you divided
 21 inventory by alphabetical order, was that
 22 your -- that was the decision that you
 23 implemented?
 24 A. Yes.
 25 Q. And did you have the discretion

1 Suarez
 2 to implement whatever system you, you
 3 wanted?
 4 A. Yes.

5 Q. And did -- anything else? I want
 6 to make sure I didn't cut you off.

7 Was there anything else you might
 8 do on a day-to-day basis to manage your
 9 direct reports at this time?

10 A. That was work-wise. Um, also,
 11 um, I trained them, trained them to be, um,
 12 very good in customer service. We reply
 13 and prioritize the inquiries from the sales
 14 force. And many times I assisted them in
 15 replying emails, communications. And also,
 16 you know, besides work, approve vacations,
 17 PTOs, hours, approval for time.

18 Q. Anything else?

19 A. No, that's all I can remember
 20 right now.

21 MS. CABRERA: I'm going to ask
 22 the witness to look at what has been
 23 marked as Exhibit 2.

24 (Thereupon, the document was
 25 marked Defendant's Exhibit 2 for

30

1 Suarez
 2 identification, as of this date.)

3 BY MS. CABRERA:

4 Q. Ms. Suarez, same thing. Take a
 5 look and let me know when you're ready.
 6 Okay?

7 A. Thank you.

8 Okay, I finished reading.

9 Q. Do you recognize Exhibit Number 2?

10 A. Yes, I do.

11 Q. And what do you recognize it to be?

12 A. A job evaluation.

13 Q. And who gave you this job
 14 evaluation?

15 A. John Wilkinson.

16 Q. And do you recall having a
 17 discussion with him about this evaluation?

18 A. No, I don't remember. It must
 19 have happened, but I don't remember.

20 Q. Understood.

21 Was it his practice to, to meet
 22 with you and talk about the evaluations
 23 when he gave them to you?

24 A. It was his practice to be running
 25 all the time. He was in a hurry all the

1 Suarez
 2 time. So, it could be that we talked about
 3 this while we were walking the warehouse.
 4 But I don't remember.

5 Q. In Exhibit Number 2, there are
 6 references to Sapphire. What is Sapphire?

7 A. It's a system, custom system for
 8 Southern.

9 Q. And what kind of system was it?
 10 What did it --

11 A. It was, um, overall system that
 12 it was used in accounting, in order
 13 processing, in payables and inventory as
 14 well.

15 Q. I ask you to turn to the last
 16 page of Exhibit Number 2. Actually, the
 17 second-to-last page. So, page six of seven
 18 at the bottom.

19 A. Yes.

20 Q. Is that your signature?

21 A. It is.

22 Q. Did you have any problems with
 23 this evaluation?

24 MR. MOSER: Objection as to form.

25 THE WITNESS: No. John always

32

1 Suarez
 2 wanted me to explain myself more, and
 3 maybe he thought it was stubbornness,
 4 but it was the language barrier that
 5 get in the way.

6 MS. CABRERA: Excuse me one
 7 second.

8 THE WITNESS: Uh-hmm.

9 MS. CABRERA: The mute button was
 10 on.

11 Lauren, are you there?

12 MS. O'CONNOR: Yes, I'm here.

13 MS. CABRERA: Okay, sorry about
 14 that.

15 MS. O'CONNOR: That's all right.

16 MS. CABRERA: Did you -- I'm
 17 going to ask the court reporter to
 18 repeat the last question and last
 19 answer.

20 (Thereupon, the record was read
 21 back by the reporter as recorded above.)

22 BY MS. CABRERA:

23 Q. And did you ever tell John that?

24 A. Yes.

25 Q. And what did he say when you told

1 Suarez
2 him that?

3 A. Sometimes he kid around and, and,
4 um, make fun of my accent.

5 Q. And how would he make fun of your
6 accent?

7 A. Repeating, like, the way I say
8 words. Nothing -- I didn't feel anything
9 derogatory about it. It's just kidding
10 around.

11 Q. Okay. And in Exhibit Number 2,
12 he makes some references to your staff. He
13 refers to Maria and her staff.

14 Are those the four individuals we
15 talked about, Josie, Ena --

16 A. 2011, yes.

17 Q. Okay. So then it's still Josie,
18 Ena, Tatyana and Justin?

19 A. Yes.

20 MS. CABRERA: I'm going to ask
21 that the witness be shown what has been
22 marked as Exhibit Number 3.

23 (Thereupon, the document was
24 marked Defendant's Exhibit 3 for
25 identification, as of this date.)

1 Suarez

2 previous evaluations, I was working a new
3 system for recording inventory. And he
4 thought that I needed to ask for more help,
5 but nobody could help me. He thought that
6 it was, um, I needed to think outside the
7 box. But IT couldn't help me. Other
8 states where this process was being worked
9 on couldn't help me. So I needed to
10 develop it by myself.

11 And when he says that that was
12 the best year in inventories not only, um,
13 accuracy but time, it is true because we
14 finished, I finished working on the new
15 system, the RF system. So, and maybe -- I
16 don't remember, but maybe there was a
17 glitch with unsellables that he is talking
18 about here. But I'm pretty sure that was
19 resolved because I don't remember any
20 glitch with unsellables anymore.

21 So yes, I -- previously he
22 thought that I was not asking for help, but
23 I was asking for help. Nobody could help
24 me. And I developed the RF system actually
25 by myself. Um, there was one person in the

34

36

1 Suarez
2 BY MS. CABRERA:

3 Q. Again, Ms. Suarez, as we have
4 done with the prior two, take your time,
5 and when you're ready let me know.

6 Are you ready?

7 A. Yes.

8 Q. Do you recognize Exhibit Number 3?

9 A. Yes, I do.

10 Q. And what do you recognize it to be?

11 A. This is a job evaluation.

12 Q. I ask you to turn to the last
13 page, which is four of four at the bottom.

14 A. Yes.

15 Q. Is that your signature?

16 A. It is.

17 Q. And who gave you this evaluation?

18 A. John Wilkinson.

19 Q. And did you and John discuss this
20 evaluation at all?

21 A. Most probably, but I don't
22 remember exactly what they were.

23 Q. Was there anything in this
24 evaluation that you disputed with John?

25 A. No, but, um, if you see the two

1 Suarez

2 IT department that helped me with, um, with
3 the changes in the Sapphire system in order
4 for this new process in inventory taking,
5 communicate directly to the system using
6 in, in, by Southern. And she did. Her
7 name is Olga. I worked perfectly with her.

8 Um, so I didn't remember, but now
9 I, I remember, like, why he previously said
10 that I didn't ask for help or I was not
11 thinking outside the box. But, yes, when
12 they, this came, the RF system came, like,
13 to be working and worked perfectly from
14 the, from the first time, um, he realized
15 that, you know, that we did it.

16 Q. What do you mean, "he realized
17 that we did it"?

18 A. We did it, that we saved money,
19 like paying overtime. Before that we had
20 inventories not for weeks -- like entire
21 week and weekends. Um, but after this was,
22 um, in use, the RF inventory taking in use,
23 actually it reduced the time to two days
24 for the warehouse workers, Friday and
25 Saturday. And Sunday I worked just with my

1 Suarez
 2 team and maybe a couple of warehouse
 3 workers, up to five. So the payroll, the
 4 money, it was considerably, and the time,
 5 the preparation, everything. Even
 6 accounting, we didn't need to pay overtime
 7 for data entry people. Everything was done
 8 in the warehouse in two days.

9 Q. And, I'm sorry, what, what was
 10 the RF system?

11 A. The RF system was radio frequency
 12 hand-held devices that communicate the
 13 accounts directly to the Sapphire system
 14 being used by the company.

15 Q. Understood. Okay.

16 And was the system before that,
 17 did you have to write it down with pen, on
 18 pen and paper?

19 A. Pen and paper.

20 Q. And then what was written on pen
 21 and paper then had to be put into the
 22 system; that's why you needed data entry?

23 A. Yes.

24 Q. Understood. So the RF system
 25 took away the need for a data entry person

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1 Suarez
 2 to be putting that information in?
 3 A. Yes, up to 30 people getting paid
 4 overtime.

5 Q. And when you say that you, you
 6 were not getting help, that you couldn't
 7 get help, did you mean that you couldn't
 8 get help in learning the RF system or
 9 implementing the RF system?

10 A. Both. I want to explain myself.
 11 Like, the RF system was there to be
 12 learned. You know, I, I didn't invent the
 13 RF system.

14 Q. Okay.

15 A. Sapphire, it was there. I didn't
 16 invent Sapphire. My work was to make the
 17 RF system working for our custom-made
 18 Sapphire system.

19 So, I had to -- it was a work in
 20 progress for over a year. Every time I
 21 have to test it myself because I had to
 22 learn by myself how it communicated. Olga
 23 created -- how do you say -- a fictional, a
 24 testing Sapphire system in order for me to
 25 play around. I had to learn and then

1 Suarez
 2 implement, and then Olga helped me putting
 3 it to work.

4 Q. Okay. And did John recognize --

5 A. Yes.

6 Q. -- the value that you brought to
 7 the system?

8 A. Yes.

9 Q. I'm going to ask --

10 A. Everybody -- actually, I'm sorry.
 11 I'm talking out of place here?

12 Q. Was there something that you
 13 wanted to add to your answer?

14 A. Greg Risley was the most
 15 outspoken about it. He recognized the, the
 16 savings that the companies were having.
 17 Like, instead of having 300 people working
 18 seven days, including, you know, overtime
 19 and double time and a half, the reduction
 20 to Friday regular hours and to Saturday
 21 maybe half day, it was significant.

22 Q. And how did he recognize? I
 23 think you said he was the most outspoken.
 24 How did he recognize?

25 A. We, we had meetings, um, prior

40

1 Suarez
 2 and after inventories, and both times he,
 3 he praised me, like, really nicely. He
 4 talked to me really nicely in front of
 5 everybody at the meeting.

6 Q. Who would be present at those
 7 meetings?

8 A. Accounting and operations.

9 Q. And who from accounting and
 10 operations?

11 A. From operations, the VP of
 12 operations, um, the director of operations,
 13 um, sometimes the warehouse manager and I.
 14 From accounting, the controller,
 15 the inventory control manager. And that's
 16 all I remember right now.

17 Q. Were all of these people either
 18 managers or supervisors?

19 A. Managers and VPs, and the
 20 controller is the equivalent to a VP.

21 Q. And how frequent were these
 22 meetings?

23 A. We did physical inventory up to
 24 six times per year for seven to eight
 25 years. So they were really frequent, like,

1 Suarez
2 maybe every two months.

3 Q. Okay. And when you say "seven to
4 eight years," what years are you talking
5 about?

6 A. From 2007 to 2014 or '15, we did
7 physical inventory up to six times per
8 year. When I implemented the RF system, we
9 didn't have that need anymore.

10 Q. What was the need that you didn't
11 have anymore?

12 A. To make -- to have inventories
13 every two months.

14 MS. CABRERA: Got it, okay.

15 I'm going to ask the witness be
16 shown Exhibit Number 4.

17 THE WITNESS: Thank you.

18 (Thereupon, the document was
19 marked Defendant's Exhibit 4 for
20 identification, as of this date.)

21 BY MS. CABRERA:

22 Q. Are you ready to proceed?

23 A. Yes.

24 Q. Do you recognize Exhibit Number 4?

25 A. Yes.

1 Suarez

2 MS. CABRERA: Is it 2113? Okay.

3 Yes, sorry, I jumped to the next one.
4 Um, you can go to -- okay, you
5 can strike the question.

6 I'm going to ask the witness be
7 shown Exhibit Number 5.

8 THE WITNESS: Thank you.

9 (Thereupon, the document was
10 marked Defendant's Exhibit 5 for
11 identification, as of this date.)

12 THE WITNESS: Okay, I have read
13 it.

14 BY MS. CABRERA:

15 Q. Do you recognize Exhibit Number 5?

16 A. Yes.

17 Q. And what do you recognize it to be?

18 A. Performance evaluation for 2014.

19 Q. I would ask you to look at the
20 last page.

21 A. Yes.

22 Q. And is that your signature there?

23 A. It is.

24 Q. Okay. And I would ask you to
25 look at page six of seven at the bottom.

1 Suarez

2 Q. And what do you recognize it to be?

3 A. It's a job performance evaluation.

4 Q. And who gave you this evaluation?

5 A. John Wilkinson.

6 Q. And turning your attention to the
7 last page, is that your signature?

8 A. Yes, it is.

9 Q. And did you dispute anything in
10 this evaluation with John?

11 A. I'm sorry. Dispute? This is how
12 he sees me.

13 Q. Did you tell John that you
14 disagreed with anything he put in your
15 evaluation?

16 A. No, I never told him or that I
17 disagreed with the way he saw me.

18 Q. I would like to draw your
19 attention to page six of seven on
20 Exhibit 4.

21 A. It's only five of five.

22 Q. On Exhibit Number -- 2114. Let
23 me see the first page of what you are
24 looking at.

25 A. Sure.

1 Suarez

2 A. Yes.

3 Q. There is a box there that says:
4 "Final Comments, Employee Comments. Please
5 write any comments or information you wish
6 to have documented as a part of this review."

7 Do you see that box?

8 A. Yes.

9 Q. Did you put anything in that box?

10 A. I don't remember ever seeing that
11 box.

12 Q. I'm sorry?

13 A. Was it in the other reviews also?

14 I don't remember ever seeing that box.

15 Q. You're saying when you received
16 this evaluation --

17 A. No, I'm not saying anything. I
18 just don't remember like...

19 Q. You don't dispute that that box
20 is there?

21 A. No, I just don't remember ever
22 seeing it.

23 Q. Were you aware that you could
24 make comments to your performance evaluations?

25 A. This is 2014. Maybe in 2016 or

1 Suarez
 2 '17 I asked if I can write down something.
 3 But I don't remember knowing -- I just
 4 received this from John Wilkinson. I read
 5 it, I signed it. No, at this point, I
 6 don't think I was aware.

7 Q. Of what?

8 A. That I could make, um, I don't
 9 know, make comments on John's comments.

10 Q. Okay. I'm going to ask that --
 11 actually, withdrawn.

12 Ms. Suarez, did you receive a
 13 performance review for 2015?

14 A. I don't remember having received
 15 a review for 2015.

16 Q. Did you give your direct reports
 17 performance reviews in 2015?

18 A. No, I did not. They are union.

19 Q. When did they become union?

20 A. From the beginning.

21 Q. So there was never any formal
 22 performance review process with your direct
 23 reports?

24 A. No. And scratch that from the
 25 beginning. I think they were hired first

1 Suarez
 2 and then they became union.

3 Q. What is the Warehouse Management
 4 Information system?

5 A. It's a new system that was
 6 implemented to make the operations more
 7 efficient.

8 Q. And did that replace the RF
 9 system --

10 A. Yes.

11 Q. -- in any way? It did, okay.

12 What about Sapphire, did it
 13 replace Sapphire as well?

14 A. No, it did not. It was
 15 implemented as an add-on to Sapphire, like,
 16 it was the RF inventory taking system.

17 Q. And what was different between
 18 the RF system and WMI?

19 A. The WMI was a more inclusive
 20 system. It worked in many instances
 21 without people involved at all. Scanners
 22 on the ceiling instead of a person scanning
 23 the product.

24 Um, not only the system was
 25 implemented, the warehouse had to be

1 Suarez
 2 expanded and new conveyor belts and
 3 scanning stations were applied, video
 4 scanning at the front of the trucks, you
 5 know, to count everything. It was a really
 6 a multimillion dollars improvement. The RF
 7 system was only my salary.

8 Q. I'm sorry?

9 A. The RF system only costed my
 10 salary, that's all.

11 Q. Oh. And so how did inventory
 12 control work under WMI?

13 A. The physical inventories once,
 14 twice, three times a year were replaced by
 15 daily cycle counts.

16 Q. Daily cycle counts?

17 A. Yes. Basically, that's how it
 18 affected me. I didn't have to resolve
 19 issues every two months, you know, or
 20 inventory preparation every two months.
 21 But I was simply, like, giving work to the
 22 cycle counters and receiving work or
 23 processing their work for them.

24 Q. And was that because the system
 25 was designed to catch errors in real time?

1 Suarez

2 A. Yes.

3 Q. And how was it implemented?

4 A. How was it implemented? It was a
 5 huge operation. People, um, came to update
 6 the, the warehouse, to expand the
 7 warehouse, um, to construct new shelving,
 8 expand the receiving area. It was -- I
 9 think I would say, like, it took like two
 10 years, year and a half, two years to
 11 implement a new system.

12 Q. And when did -- do you recall
 13 when it started?

14 A. In July 2017.

15 Q. July 2017 was when it was fully --

16 A. Implemented.

17 Q. Okay. Do you know when it was
 18 first introduced to the warehouse?

19 A. In July 2017. You know, it
 20 was -- um, we saw the scanners, the videos,
 21 the conveyor belt, but it wasn't
 22 implemented; it wasn't introduced to the
 23 warehouse workers before that.

24 Q. When did you become aware that
 25 the Warehouse Management Information system

1 Suarez
 2 would be replacing the RF system?
 3 A. I don't remember, but prior to
 4 July 2017.
 5 Q. If I, if I said that it was in
 6 early 2016, would you dispute that?
 7 A. No. Actually, it was in
 8 January 2016 that Kevin Randall came from
 9 upstate New York to Metro New York in order
 10 to start implementation.
 11 Q. Okay. And was there training in
 12 connection with this new system?
 13 A. It was on, in July 2017. Um,
 14 people from upstate New York came to train
 15 the warehouse workers in Metro New York.
 16 Q. And that happened in July of
 17 2017 --
 18 A. Yes.
 19 Q. -- the training?
 20 A. Yes.
 21 Q. Okay.
 22 A. The taking of the inventory with
 23 the new system, it was done both by
 24 warehouse workers from upstate New York
 25 that had the system already working there

1 Suarez
 2 date. So, it could have been, like,
 3 inventory control manager or WMI
 4 administrator. It could be either one.
 5 Q. When you went to upstate New York
 6 for the training for one week, can you
 7 describe what that training was like?
 8 A. It, it was learning how they, the
 9 cycle counters did the cycle counts. Like,
 10 it was, like, what my job was changing to.
 11 So, maybe I had already the new
 12 title, like, I had already have in the new
 13 position.
 14 I learned how the cycle counts
 15 were performed. I went with the cycle
 16 counters, observing them how they did the
 17 cycle counts. And I worked in the office,
 18 looking at the cycle counts, accepting
 19 cycle counts.
 20 And I then watched how they start
 21 accepting the cycle counts, created
 22 adjustments sent to Sapphire. More or less
 23 it's how the RF system worked, but of
 24 course a complete new system.
 25 Q. And how comfortable were you with

50
 1 Suarez
 2 for years, um, along with warehouse workers
 3 in Syosset, you know, learning for their system.
 4 Q. Okay. When did you receive
 5 training on the new system?
 6 A. I don't remember the date. I was
 7 sent to upstate New York. I think it was
 8 for a week, to work along the warehouse --
 9 I'm sorry, the system administrator up there.
 10 Q. And do you remember that person's
 11 name?
 12 A. Melissa, but I'm not sure.
 13 Q. And was that before July 2017
 14 that you went --
 15 A. Yes.
 16 Q. -- upstate?
 17 A. Yes.
 18 Q. Do you have any sense of how soon
 19 before July 2017 you went upstate?
 20 A. Maybe a month prior to that,
 21 maybe in June.
 22 Q. What was your title at that time
 23 when you went upstate for the training?
 24 A. I don't remember when my title
 25 changed. Actually, I don't remember the

52
 1 Suarez
 2 the new system at the end of that week of
 3 your training?
 4 A. Pretty confident.
 5 Q. And how did you feel about
 6 Melissa as a trainer?
 7 A. Oh, she is excellent.
 8 MS. CABRERA: I'm going to ask
 9 the witness be shown what has been
 10 marked as Exhibit Number 5 (sic).
 11 (Thereupon, the document was
 12 marked Defendant's Exhibit 6 for
 13 identification, as of this date.)
 14 THE REPORTER: It is number six,
 15 not five.
 16 MS. CABRERA: I'm sorry, the
 17 witness was given Exhibit Number 6, not
 18 Exhibit Number 5. Thank you.
 19 THE WITNESS: Okay.
 20 BY MS. CABRERA:
 21 Q. Ms. Suarez, I'm going to direct
 22 your attention on Exhibit Number 6. If you
 23 look at the bottom right-hand corner, there
 24 are little numbers.
 25 A. Uh-huh.

1 Suarez

2 Q. And I want you to turn to the
3 second page which should have the numbers
4 at the bottom, 000899. Let me know when
5 you're there.

6 A. Okay.

7 Q. Have you ever seen Exhibit Number 6?

8 A. Yes. This was the posting for
9 the position.

10 Q. And where did you see the posting
11 for the position?

12 MR. MOSER: Objection as to form.

13 THE WITNESS: I don't remember if
14 it was sent to me by email or it was
15 sent a link. Um, when Kevin Randall
16 told me to apply to this position, he
17 told me that it had -- HR sent emails
18 every Friday of positions available,
19 but I didn't have the email anymore. I
20 just used to delete those emails.

21 So, I asked HR how can I apply to
22 this that Kevin told me that I need to
23 apply to this position. And I don't
24 remember if they sent me an attachment,
25 attachment through email, or it was

1 Suarez

2 A. But yes, go ahead.

3 Q. Okay, so let's start.

4 Under "Core Responsibilities," it
5 says "Strategy (50%)."

6 Do you understand what that means?

7 A. Yes.

8 Q. What does that mean? What did
9 that mean?

10 A. That the applicant, you know,
11 50 percent of the, the, of the
12 consideration of the applicant should be
13 focused in this part of strategy.

14 Q. Was it your understanding that as
15 part of the WMI position, that you would be
16 spending 50 percent of your time on strategy?

17 A. No, that was not my understanding
18 of the position.

19 Q. What about if you go further
20 down, right, we are on this same page, it
21 says "Execution (30%)"? Actually, strike
22 my question. You can strike that.

23 What was your understanding of
24 the responsibilities of the WMI
25 administrator when you were applying for

1 Suarez

2 they sent me a link to apply.

3 BY MS. CABRERA:

4 Q. And did you get this position?

5 A. Yes.

6 Q. Okay. And so looking at the page
7 where the bottom page number is 899, in the
8 middle of the page it says "Core
9 Responsibilities."

10 Do you see that?

11 A. Yes.

12 Q. Is what is listed below the core
13 responsibilities, are those the
14 responsibilities that you actually were
15 performing when you got the WMI position?

16 A. Okay. I -- partially.

17 Q. And I was going to say I want us
18 to go line by line, right? And if there is
19 something there that you were not doing --

20 A. Uh-huh.

21 Q. -- tell me what that was, what
22 that is. Okay?

23 A. Most of this I don't even
24 understand.

25 Q. Okay.

1 Suarez

2 the position?

3 A. Well, when I was told to apply to
4 the position, I was told as well that my,
5 my responsibilities were going to be the
6 same as I was, in my previous position as
7 an inventory control manager. That nothing
8 will change.

9 Q. Okay. So, your understanding was
10 that your responsibilities would be the
11 same?

12 A. Yes.

13 Q. Are those the responsibilities
14 that you outlined for me earlier in the
15 deposition?

16 A. Yes.

17 Q. Okay. And is it your position
18 that those responsibilities are different
19 than the responsibilities laid out in
20 Exhibit Number 6?

21 A. Yes.

22 Q. How are they different?

23 MR. MOSER: Objection. Just for
the record, the witness says she
doesn't understand what most of these

1 Suarez
2 mean. So, over my objection, she can
3 answer.

4 THE WITNESS: Um, as I told Kevin
5 Randall and John Wilkinson, that this
6 position, it looks like it's more for
7 an IT person than for an accountant.
8 And I'm an accountant. And I could
9 understand a system; I can train on a
10 new system. I can understand and
11 implement and train my people to
12 working a new system. But I'm not by
13 any means a programmer, a computer
14 specialist.

15 BY MS. CABRERA:

16 Q. And what did they say to you in
17 response?

18 A. That nothing will change, that
19 don't even read this. That's what Kevin
20 Randall's words were.

21 Q. He told you not to read the job
22 description?

23 A. No, don't pay attention to it.
24 When I said to him, like, it looks to me
25 that this is for an IT person, a

1 Suarez
2 This is the end of media number two.
3 (Brief break.)
4 THE VIDEOGRAPHER: We are back on
5 the record. The time is 12:29 p.m.
6 This is the start of media number
7 three.

8 BY MS. CABRERA:

9 Q. Ms. Suarez, I ask that you be
10 shown what has been marked as Exhibit
11 Number 7.

12 A. Uh-huh.

13 (Thereupon, the document was
14 marked Defendant's Exhibit 7 for
15 identification, as of this date.)

16 BY MS. CABRERA:

17 Q. Again, once you are done with
18 that exhibit, please let me know when you
19 are ready to proceed.

20 A. Okay, I have read the letter.

21 Q. Do you recognize number 7,
22 Exhibit Number 7?

23 A. Yes. I didn't remember until
24 now, but that's my signature.

25 Q. And what do you recognize Exhibit

58

60

1 Suarez
2 programmer, not for an accountant, he said
3 that nothing will change. Even inventory
4 control manager, it's an accounting
5 position. It has to -- um, we need to know
6 how to work in a computer system, but we
7 don't need to understand the computer
8 system. I was given no alternative but to
9 apply to this position.

10 Q. And what do you mean by you
11 weren't given an alternative?

12 A. No alternative.

13 Q. Meaning you wouldn't have a
14 different -- there was no other position
15 for you, is that what you're saying?

16 A. That's what I'm saying, yes.

17 MS. CABRERA: We have to go off
18 tape. The videographer has to change
19 tapes. So if you want to take a break
20 now --

21 THE WITNESS: Uh-huh.

22 MR. MOSER: He is going to change
23 the tape?

24 THE VIDEOGRAPHER: We are going
25 off the record. The time is 12:16 p.m.

1 Suarez
2 Number 7 to be?

3 A. It looks like an official letter
4 from HR, I guess to make official my new
5 position.

6 Q. And this was the WMI
7 administrator position, is that correct?

8 A. Yes.

9 Q. And so based on this letter, it
10 looks like you started that position in May
11 of 2016?

12 A. Yes.

13 Q. And is that your recollection of
14 when you started?

15 A. I didn't remember until now, but
16 yes.

17 Q. Going down to compensation, this
18 is -- your annual salary rate will be
19 75,000 payable in weekly installments of
20 1442.31 each Friday. Was that an increase?

21 A. Yes.

22 Q. Where was the WMI administrator
23 position located?

24 A. Syosset.

25 Q. And what were your job duties as

Suarez

1 Suarez
2 WMI administrator?

3 A. The same as before, I was told,
4 but they started to change a little bit, a
5 little by little after I took the position.

6 Q. Okay. How soon after you took
7 the position did your responsibilities
8 start to change?

9 A. As soon as -- the first time I
10 realized was in July 2017. No, July 2016.
11 I'm confused with the dates.

12 Q. Okay. So, let's go back to
13 Exhibit Number 7, right? It's dated
14 May 4th of 2016.

15 A. Yes.

16 Q. Correct? Okay.

17 And so, you believe that the
18 first change was in July. From your
19 recollection, was it, was it within months
20 of getting the new position, or was it a
21 year after getting the new position?

22 A. The question that you asked me
23 before, when it was implemented, I said
24 July 2017. But I was mistaken. It was
25 July 2016.

Suarez

2 Q. What were you specifically told
3 what to do with regard to your team?

4 A. One thing I remember, but I don't
5 remember exactly the date, but for me it
6 was a realization that I was not their boss
7 anymore, is that I never approved vacation
8 for physical inventory. During physical
9 inventories everybody has to attend
10 physical inventory. My team has to attend
11 physical inventory. We are the physical
12 inventory team. So, of course it's a sick
13 day, that's different. But vacation,
14 approve vacation for those days, no. And I
15 don't remember if I wasn't there or if I
16 was. But Ena didn't come to a physical
17 inventory, and Tonisha had approved a
18 vacation day for her.

19 Q. What were the dates of the
20 physical inventory?

21 A. I'm sorry, I don't remember.

22 Q. Did they change, or was it
23 something that was -- was it the same day,
24 or was that something that changed?

25 A. There were not too many physical

Suarez

1 Suarez
2 Q. Okay. Okay.

3 A. Yes, I started to notice the
4 difference in, in my job duties, like, I
5 think it was July 2016.

6 Q. And tell me what was different.

7 A. I wasn't able to reconcile,
8 reconcile the physical inventory just
9 taken. Other people, like programmers,
10 just accepted the numbers. Like, I was not
11 in the decision making of the numbers being
12 taken. I was an accountant and, and, and
13 not be able to, to approve the physical
14 inventory. It was hard.

15 Q. What else changed?

16 A. I don't remember exactly when,
17 but, um, other people started, like, um, to
18 approve vacations and PTOs. Um, my team
19 wasn't not my team anymore. And I would
20 still give them work and review their work,
21 but the decision making wasn't there
22 anymore. Like I, I was always told what to
23 do.

24 Q. Even with regard to your team?

25 A. Yes.

1 inventories at that moment, so it's very
2 easy to look in the vacation records for
3 Ena and the physical inventories in
4 Sapphire. So I don't remember if it was
5 July 2016 or January 2017, um, but she got
6 a vacation time approved during physical
7 inventory.

9 Q. How often was physical inventory?

10 A. Um, it was replaced by daily
11 cycle counts. So, July 2016, when the
12 system went live, we took the final
13 physical inventory. But in January 2017,
14 we had auditors, so we had to perform
15 selected physical inventory.

16 Q. What else changed about your role
17 as WMI administrator from your prior role?
18 You said --

19 A. Okay. The main thing, it was my
20 not being able to analyze the inventory and
21 to fix the inventory, to, um, um, to
22 prioritize what I need to, to do to solve
23 issues. Being told that my threshold for,
24 for approving, um, adjustments was \$500,
25 that's, that's nothing.

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Suarez

1 Q. What was it before?

2 A. No threshold. I talked to
3 accounting. I, I talked to the controller,
4 I talked to the, um, to my superiors, and
5 if I found \$2,000 worth of inventory, I
6 made adjustments. I sent an email.7
8 Actually, there was a loss in the
9 company, like, I don't remember exactly the
10 date, but I reviewed the loss with the
11 insurance company. I was in the decision
12 making of how much was it, like, a hundred
13 thousand dollars.

14 Q. And when was that?

15 A. Maybe 2010.

16 Q. I believe you said that -- you
17 said, "My team was not my team anymore. I
18 still gave them work and review work."

19 A. Yes.

20 Q. Did you still have the authority
21 to fire one of the members of your team?22 A. They were not under me anymore.
23 I, I wasn't told anything. Once -- one day
24 I looked at the -- I don't know if I'm
25 saying this correctly, organigram (sic),

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1 Suarez

2 like the chart, the company chart, and they
3 were put under John Wilkinson. They were
4 not under me anymore. I don't remember
5 exactly which day, the date.6 Q. And where were you on that
7 organizational chart?8 A. Under John Wilkinson as well.
9 So, me and my, my team, they were not subor
10 -- subordinates to me anymore. It changed
11 overnight.12 Q. So you are saying when you looked
13 at the organizational chart, you and -- and
14 are we talking about Ena, Tatyana --

15 A. Yes.

16 Q. -- Josie and Justin?

17 They were on the same line as you?

18 A. Yes.

19 Q. And do you remember when you
20 looked at the organizational chart?21 A. I don't remember exact dates,
22 but, you know, things started happening.

23 Q. It was -- I'm sorry.

24 A. It would be July 2016, it could
25 be August 2016.

1 Suarez

2 Q. So it was after you took the WMI
3 position?

4 A. Yes, yes.

5 Q. Had you looked at the
6 organizational chart when you were
7 inventory control manager?

8 A. Oh, yes.

9 Q. And what did the organizational
10 chart look like then?11 A. John Wilkinson, my superior. And
12 under me, my team.

13 Q. Anything else that changed?

14 A. That's all I can remember right
15 now. But that's a huge change.16 Q. So what did you do? What was
17 your job?18 A. Checking my, I guess, daily cycle
19 counts and approving adjustments for up to
20 \$500.

21 Q. Anything else?

22 A. I don't think so, but I have...

23 Q. I'm sorry?

24 A. Um, that's all I can tell you
25 right now. Like, I don't -- it changed.

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1 Suarez

2 Everything changed. But if you ask me the
3 question, I can respond to you. If you ask
4 me in general what else changed, that's all
5 I remember, I can remember right now. I
6 don't remember anything else.7 Q. Okay. So, why don't you explain
8 for us, then, what you, what you did do
9 when you reported to work as a WMI
10 administrator. Walk us through the day.
11 What did you do at work?12 A. I got there. Sometimes I helped
13 closing the previous night operations. Um,
14 sometimes it was already closed, so the
15 work was there to give to my people. Um, I
16 assigned the work to them, and I reviewed
17 in the computer the work they did.18 Many times I went and double
19 check counts, and I didn't see the big
20 picture anymore. I saw one case, two
21 cases. I saw \$500, \$1,000. I didn't know,
22 like, what the inventory was worth at the
23 time, or how many cases were shipped or --
24 I didn't see inventory matters anymore.

25 Q. My question is: What did you do

1 Suarez
 2 during the day at work as a WMI?
 3 A. Oh, that was it.
 4 Q. So, you went in, you went into
 5 your computer --
 6 A. Sometimes I helped closing the
 7 last night of operations.

8 Q. Okay.
 9 A. Sometimes it was already closed.
 10 I give work to my team. I double check
 11 their work and approve their work.

12 Q. Did you do anything else?
 13 A. (Witness shakes head in the
 14 negative.)

15 Q. And how many hours a day did you
 16 work?

17 A. Eight.

18 Q. And that took up eight hours of
 19 your day?

20 A. Yes.

21 Q. I believe earlier you said you
 22 remembered that -- actually, withdrawn.
 23 Strike that question.

24 Before I move on, going back to
 25 the, your responsibilities as WMI

1 Suarez
 2 wasn't important. The important part was
 3 to finish the counts.
 4 Q. I understand whether it is
 5 important or not. But my question is: How
 6 did you decide who went to what part of the
 7 warehouse?

8 A. I'm sorry, I can't answer that
 9 question because actually I didn't decide.
 10 Like, the system -- let's say one day the
 11 system tells me that, um, the racks in the
 12 cooler room have the most issues in that
 13 day. So I assigned two people to start
 14 counting the cooler room.

15 Q. Okay.

16 A. So, it was no decision making.
 17 It was -- the work was given to us by the
 18 WMI system.

19 Q. So going off the example that you
 20 just gave -- right?

21 A. Uh-huh.

22 Q. -- you are saying the system told
 23 you you had to send two people to the
 24 cooler room to perform work. Is that what
 25 you are telling me?

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 1 Suarez
 2 administrator, when -- I believe you said
 3 you would go into the computer and you
 4 would see what work was there and you would
 5 distribute that to your team.

6 A. Yes.

7 Q. Did you decide who got what work?

8 A. No.

9 Q. How was that decided?

10 A. By the system.

11 Q. Explain that to me, please.

12 A. Um, in the position they were in
 13 the warehouse, they went out to the
 14 warehouse. The only thing I said to them,
 15 like, um, work is there. It's closed. We
 16 start counting. So I told one person to
 17 start in one part of the warehouse, another
 18 person to start in another part of the
 19 warehouse. And the system will give them
 20 -- we take them to the nearest location to
 21 count.

22 Q. And how did you decide who went
 23 to what side of the warehouse?

24 A. Most of the time they said, like,
 25 "I want to start here today," or, um, that

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 1 Suarez
 2 A. No. The system tells me that
 3 most counts are in the cooler room, so I
 4 assign two people to the cooler room.

5 Q. And my question is: How -- who
 6 made the decision that it would be two
 7 people to go to the cooler room?

8 A. I'm not understanding your
 9 question. There was no decision making on
 10 how many people went to the cooler room or
 11 anything.

12 Q. I'm using your words and your
 13 example.

14 You said that you would look in
 15 the system and it would tell you that the
 16 cooler room was where people needed to go
 17 to work, and that you would send two
 18 people.

19 You had -- there were four
 20 people, correct? Was it still Ena,
 21 Tatyana -- we are talking about four
 22 people?

23 A. Uh-huh.

24 Q. So my question is: How was it
 25 decided that it would be two people that

1 Suarez
 2 would go to the cooler room because the
 3 work needed to be done by two people? Who
 4 made that decision?

5 A. It would be my guess that by
 6 reading the numbers, I will make that
 7 decision. But I just tried to even out the
 8 number of counts by the number of people
 9 that I had. At that point, I think I had
 10 five people or six.

11 Q. And who decided of the people
 12 that you had, who made the decision about
 13 who would go do that work?

14 A. I guess I'm not explaining myself
 15 correctly. The system will give them the
 16 next location.

17 Q. Does the system say Ena is going
 18 to go to the cooler room, Tatyana is going
 19 to go to the cooler room? The system tells
 20 you who needs to go where?

21 A. I just said, like, it start by
 22 the four corners of the warehouse or start
 23 by the shipping section of the warehouse
 24 where it's most work. So the system will
 25 give them the next location, the next

1 Suarez
 2 Q. That is what I want to know.
 3 A. I'm telling you the truth. The
 4 truth is that I didn't make decisions. I
 5 will ask the people working as cycle
 6 counters to start in different places of
 7 the warehouse. So the system will give --
 8 it will be more productive so the system
 9 will give them equal number of cycle counts
 10 throughout the date -- throughout the day.

11 Q. So you assigned to the people
 12 where they were going to be working at the
 13 beginning of their shift, and then after,
 14 the system sort of directs.

15 A. Yes.

16 Q. Okay. Did you perform your work
 17 -- was it all on a computer or some sort of
 18 a device?

19 A. Yes, computer and warehouse.
 20 Before, also I used to work the warehouse
 21 looking for whatever discrepancies or
 22 checking, or double checking work.

23 Q. When you say "before," when are
 24 you -- what time period are you talking
 25 about?

1 Suarez
 2 location. It could -- the system could
 3 give them a next locations to all of them,
 4 or if one person, like, step out and goes
 5 to the bathroom, at the moment that person
 6 comes back to the warehouse, the system
 7 will give them a different location. It's
 8 not my decision. The system will give them
 9 the nearest location in need to be cycle
 10 count.

11 Q. And that's after they already
 12 started at the first location, is that
 13 correct?

14 A. Yes.

15 Q. Okay. And who decides that where
 16 the different people are going to go? At
 17 the beginning, who made that decision?

18 A. At the beginning, I guess you
 19 want me to tell you that I make that
 20 decision. Yes, I asked them, "Josie,
 21 please start here, it looks like more
 22 counts are there." Yes.

23 Q. To be clear, I want you to tell
 24 me the truth about what happened.

25 A. Yes.

1 Suarez

2 A. Before, I was talking my
 3 administrator.

4 Q. But as WMI administrator, you
 5 didn't do that anymore?

6 A. Yes.

7 Q. Yes, you did it or no, you didn't?

8 A. Yes, I did, both on the
 9 computer -- you said, like, how my work was
 10 performed.

11 Q. Uh-huh.

12 A. Both in the computer and
 13 physically walking the warehouse.

14 Q. And what were you looking for
 15 again, for discrepancies?

16 A. And double checking counts.

17 Q. And were -- those were the counts
 18 that were done by the cycle counters?

19 A. Yes.

20 Q. Earlier you mentioned, when I
 21 asked you about training for the WMI
 22 position, you mentioned someone named
 23 Melissa.

24 A. Yes.

25 Q. Was it Melissa Johnson?

1 Suarez

2 A. Is there another last name? I
3 think she use a different last name.

4 Q. Anyone else? Did anyone else
5 train you?

6 A. I asked a question to the
7 programmers, to the people implementing the
8 system. I asked for a textbook guide,
9 something about the system. Um, I asked
10 the other locations where the system was
11 already implemented if they have some sort
12 of manual or guide. But, um, no, they
13 didn't, and I wasn't given anything. But I
14 did ask questions to the programmers.

15 Q. Aside from the one week that you
16 spent with Melissa upstate --

17 A. Yes.

18 Q. -- did she spend any other time
19 training you?

20 A. Oh, yes. She came -- um, when
21 the system was implemented, she came and
22 she trained -- she came -- I think we got
23 the whole cycle counters. So they not only
24 worked with me, but they trained the cycle
25 counters, my people.

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1 Suarez

2 Q. And how many times did Melissa
3 spend time training you in particular?

4 A. I think it was another time that
5 she came to train me and John Wilkinson on
6 closing the night operations.

7 Q. What is closing the night
8 operations?

9 A. You know, when all the trucks are
10 gone, like, like, we close the night
11 operations, we, um, in order to start the
12 new day, that's the WMI cycle ends with a
13 shipping. So, it has to be done in our
14 computer by a manager. Usually the night
15 manager does it, but at the beginning of
16 when they implemented the WMI system, the
17 night manager didn't have a chance to do
18 it. It was done, like, by noon the next
19 day.

20 Q. Okay. Any other training
21 sessions with Melissa?

22 A. I think she was there a couple of
23 times, um, but I don't remember very well.
24 I think that she was with me one more time,
25 um, to show me or to try to be more

1 Suarez

2 efficient finishing all the counts that
3 were in the system.

4 Q. So was that five different
5 training sessions with Melissa?

6 MR. MOSER: Objection.

7 THE WITNESS: I think more like
8 four, but I don't remember correctly.
9 For me, it was in May or June 2006.
10 Then in July she came -- when
11 everything started, she came and
12 stayed, like, maybe a month when the
13 cycle counters were there for maybe a
14 week. Um, then she came to train, I
15 think not only me and John Wilkinson
16 but other people, like the night
17 managers. Um, and I think she came
18 again, but I don't remember when or
19 exactly how many times. I think there
20 were four in total.

21 BY MS. CABRERA:

22 Q. And what did you learn from
23 Melissa when she was training you?

24 A. Everything that she was telling
25 me, yes.

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1 Suarez

2 Q. And --

3 A. And she couldn't make it more
4 efficient, the counts. That's why we hired
5 two more cycle counters, because I couldn't
6 finish all the counts that were in the
7 system. Like, the counters couldn't finish
8 all the counts that were in the system.

9 And when she came, she trained me and my
10 people, like, to be more efficient, but we
11 ended up hiring two more cycle counters.

12 Q. What else did she train you on?

13 A. That's all I can remember right
14 now.

15 Q. What about the week that you
16 spent with her upstate, what did you learn
17 from her at that time?

18 A. Like I said before, I worked with
19 her -- I saw how she gave work to the cycle
20 counters. I worked with her and the cycle
21 counters in the warehouse. I saw how the
22 cycle counts were performed. I went back
23 and see how she approved the counts and how
24 she assigned more cycle counts to the
25 counters. And that was applied in, in

1 Suarez
2 Syosset as well.

3 Q. Is that everything that you
4 learned from her in that week?

5 A. Yes, I think so.

6 MS. CABRERA: I'm going to ask
7 the witness be shown what has been
8 marked as Exhibit Number 8.

9 (Thereupon, the document was
10 marked Defendant's Exhibit 8 for
11 identification, as of this date.)

12 THE WITNESS: Okay, I have read
13 it.

14 BY MS. CABRERA:

15 Q. So Exhibit Number 8 appears to be
16 an email string. So I'm going to start
17 from the bottom up. Okay?

18 At the bottom there appears to be
19 an email from you to John Wilkinson.

20 A. Yes.

21 Q. Do you remember sending him this
22 email?

23 A. I didn't until now that I read it.

24 Q. And so can you explain what was
25 going on here?

1 Suarez
2 John Wilkinson.

3 Q. So is this why you sent him,
4 John, this email?

5 A. It must be. Maybe there is
6 another email before this.

7 Q. On the second line, the address
8 is -- you address what you just shared,
9 right?

10 A. Uh-huh.

11 Q. That he wanted you to cherry pick
12 or count behind cycle counters. You say
13 also that "I am wasting man hours putting
14 Justin to recount behind the others."

15 A. Yes, because he wanted me -- the
16 way I was doing it up to now, then, is the
17 way Melissa showed me how she did it
18 upstate. I don't remember how many -- I
19 think she had three people upstate. She
20 put two people doing basic counts and one
21 person behind those two people to recount
22 or to double check. And I'm double
23 checking only one people, one person.

24 He told me, if I remember
25 correctly, that the way I was putting

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1 A. It says sitting with Daniel. I
2 don't remember Daniel, but there was one
3 person that want me, that want me to learn
4 how he did his job in some other state.
5 This wasn't in, in upstate New York.

6 Q. Okay.

7 A. I think it was how he did his
8 work in California, if I remember
9 correctly. So, he want me to go behind my
10 cycle counters every single count. And I
11 wanted to learn more. Like, I had already
12 learned that from Melissa. I want to learn
13 more about the system. And I found it
14 counter-productive going behind my cycle
15 counters when Melissa showed me how to
16 check the counts and if I see any
17 discrepancy or I thought that they were
18 incorrect, go and check by myself. I
19 didn't have to go and be behind my cycle
20 counters.

21 First of all, there were cycle
22 counters, four cycle counters and only one
23 me. So, yeah, and I guess he complained to
24 John Wilkinson and I explained myself to

84 Suarez

1 Justin behind the other three cycle
2 counters, I was wasting man hours, that
3 that should be my, my position; I should be
4 going behind my cycle counters.

5 Q. And did John discuss this with you?
6 A. Um, must be either, um, um, um, a
7 previous email or a phone conversation. It
8 must be a previous email because I replied
9 to him with an email.

10 Q. And where do you see that you are
11 replying to him with an email?

12 A. Because that subject doesn't
13 sound like me, "sitting with Daniel."

14 Q. How did you and John communicate?
15 Was it via email? Did you talk on the
16 phone? Did you talk in person?

17 A. By this time, it was not much
18 communication. Until 2014 or the end of
19 2013, I think we communicated by phone,
20 like, three, four times a day. He was --
21 he was always asking me questions.

22 Q. Do you remember talking to John
23 about this specific email?

24 A. No, I don't.

1 Suarez

2 MS. CABRERA: I'm going to ask
3 that the witness be given what has been
4 marked as Exhibit Number 9.

5 (Thereupon, the document was
6 marked Defendant's Exhibit 9 for
7 identification, as of this date.)

8 THE WITNESS: Okay, I have read
9 it.

10 BY MS. CABRERA:

11 Q. Do you recognize Exhibit Number 9?

12 A. Yes.

13 Q. And what do you recognize this to
14 be?

15 A. Yes, this is an email that John
16 sent to me -- a memorandum that John
17 Wilkinson sent to me. I think it was given
18 to me in person. I think Beth, the HR
19 director, was there at that moment.

20 Q. So if you look at the first page,
21 right --

22 A. Uh-huh.

23 Q. -- at the top it says to Maria,
24 from Elizabeth Toohig.

25 Was Elizabeth the HR person?

1 Suarez

2 system until then, but, um, I wasn't able
3 to, to review all the counts. I wasn't
4 able to, um, and I explained to them that,
5 um, I didn't -- they told me about, um --
6 this is what I remember.

7 Q. Sure.

8 A. Negative adjustments. I didn't,
9 I didn't wipe out inventory out of the
10 system. I just prevented; I put it aside.
11 We call it the off-premise packet. I put
12 it aside in order for the sales force not,
13 not to see it so they couldn't order --
14 they couldn't be back-ordered, so we didn't
15 have customers' complaints.

16 We -- but this time we had a lot
17 of customer complaints. You know, product
18 was not being shipped, product is lost.
19 Um, the warehouse workers are still
20 learning the, all the functions. Product
21 get lost in the system from the receiving
22 platform to the location. All sort of
23 things are happening right now.

24 The night operations, like I told
25 you before, is not being closed until the

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1 Suarez

2 A. Yes.

3 Q. The email says: "I have attached
4 the performance expectations we reviewed on
5 Friday."

6 A. Yes. So she was there and we
7 talked about it and she sent a signed copy
8 to me afterwards.

9 Q. So was this an in-person meeting?

10 A. Yes.

11 Q. And where did this meeting occur?

12 A. In John Wilkinson's office.

13 Q. How long did the meeting last?

14 A. I don't remember.

15 Q. Was it an hour or more or less?

16 A. Yes, it could be an hour. But it
17 could be more or less. I don't remember.

18 Q. Well, what did you talk about at
19 the meeting?

20 A. I think this -- when I told them
21 that, you know, I, we weren't able to
22 finish all the counts. Not only that the
23 waves from previous night operations were
24 open until, like, the afternoon, so we
25 couldn't start counting the counts in the

1 Suarez

2 afternoon the following day. Until then,
3 customers can't enter orders. Customer
4 service is doing nothing, can't enter orders.

5 So, um, Steven from upstate, he,
6 he was John Wilkinson's counterpart in
7 upstate New York. Um, he came with a
8 solution how to assign counts to the cycle
9 counters in order to start counting, not
10 waiting for, um, the system, um, to give us
11 count, but, you know, put the counters to
12 work.

13 Q. And is that the attachment --

14 A. Yes.

15 Q. -- that is the page, the cycle
16 counters position?

17 A. Yes, and this actually worked.

18 Q. And what about -- I want to
19 direct your attention to the first
20 paragraph of the memo and the last three
21 lines. It says: "It was repeatedly
22 brought to my attention that you spent very
23 little time at the WMI desk interacting
24 with the experts and was uncooperative
25 during training and indicating that you

1 Suarez
 2 were confident you had master the new
 3 process for inventory control."
 4 What was your -- let me ask you a
 5 question. What was your response to John
 6 about that?

7 A. I don't remember what was my
 8 response to John. But I think this is
 9 about the other memo that you showed me
 10 before, "sitting with Daniel."

11 Actually, I was following -- I
 12 don't remember Daniel. But I remember,
 13 like, the situation a little bit, like
 14 where I explained to John on the previous
 15 memorandum. Um, but I was doing what
 16 Melissa was training me to do. And
 17 actually the system -- but at this point,
 18 waiting for the system to give us work is,
 19 is, it was out of control and it's not that
 20 I mastered the system. It's just that
 21 everything that was told to me, I learned
 22 it.

23 Q. So you disagreed with you being
 24 described as uncooperative?

25 A. Yes, I disagree.

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1 Q. I'm going to ask you to turn to
 2 the second page of the memorandum.

4 A. Yes.

5 Q. One, two, three lines down, in
 6 the middle, it says: "Melissa Johnson,
 7 Danny Layman and Manny Porras will continue
 8 to offer you training and guidance."

9 Were those -- does that refresh
 10 your recollection as to the names of the
 11 people who came to the warehouse to train?

12 A. I remember Melissa very well. I
 13 don't remember Danny. I guess that's the
 14 same Daniel from the other memorandum. And
 15 I don't remember Manny Porras. Maybe those
 16 are the programmers that I asked for a
 17 manual or a guide. Maybe -- I'm sorry, I
 18 don't remember, but I did talk to the
 19 programmers.

20 Q. And is this your signature?

21 A. Yes.

22 Q. And how did this meeting end?

23 A. I don't remember. I guess I went
 24 back to my job.

25 Q. When it ended, did you feel that

1 Suarez
 2 John had listened to your explanations
 3 about what was happening?

4 A. I don't remember how I felt. I
 5 don't remember John listening to my
 6 explanations. I, of course I did explain
 7 myself. Um, Beth was there every time I
 8 had a meeting. I think by this point it
 9 was my second meeting with Beth present, or
 10 the first. I don't remember.

11 I will always offer to work
 12 better. Like, when I was offered these
 13 directions from Steve from upstate, I was
 14 very grateful. I was very grateful every
 15 time Melissa was there to train me and be
 16 faster, more productive. She was a great
 17 help. And she realized that things were
 18 really bad when we just started. And she
 19 told me then when they started in upstate,
 20 it was very difficult as well.

21 Q. Do you know how long upstate had
 22 already been using the WMI?

23 A. More than five years. So she was
 24 an expert.

25 Q. Direct -- the first page, the

1 Suarez
 2 email, is dated Tuesday, September 6th of
 3 2016.

4 A. Uh-huh.

5 Q. Was this before or after you gave
 6 your deposition testimony in the Sanjous
 7 case?

8 A. I, I don't have the, the dates in
 9 front of me, but I think it's before.

10 MS. CABRERA: We are out of
 11 premarked exhibits. Can you go off the
 12 record for a minute?

13 THE VIDEOGRAPHER: Sure.

14 We are going off the record. The
 15 time is 1:30 p.m. This is the end of
 16 media number three.

17 (Brief break.)

18 THE VIDEOGRAPHER: We are back on
 19 the record. The time is 1:38 p.m.
 20 This is the start of media number four.

21 MS. CABRERA: I ask the witness
 22 be given what has been marked as
 23 Exhibit Number 10.

24 (Thereupon, the document was
 25 marked Defendant's Exhibit 10 for

1 Suarez
2 identification, as of this date.)

3 THE WITNESS: Thank you.
4 BY MS. CABRERA:

5 Q. Ms. Suarez, take a look at
6 Exhibit Number 10, and as we have been
7 doing, let me know when you're ready
8 proceed. Okay?

9 A. Okay.

10 Q. Exhibit Number 10 appears to be
11 an email string. So at the bottom it looks
12 like an email was sent to you from
13 scans@southernwine with the attachment
14 that's page two. Is that correct?

15 A. Yes. Some sort of text, is my
16 guess, because it looks like I'm responding
17 to an email.

18 Q. Understood.

19 A. Okay.

20 Q. Looking at the second page at the
21 top, there's some handwritten notes.

22 A. Yes.

23 Q. Do you know who put those notes
24 there?

25 A. It looks like my handwriting.

1 Suarez

2 Q. Okay. And then sort of to what
3 you were getting at, right at the top, you
4 are writing to John?

5 A. Uh-huh.

6 Q. So can you just explain for us
7 what was going on here, what happened?

8 A. It looks like I wanted to explain
9 myself that, um, it's not because I was
10 lacking in effort or, or my work ethic
11 wasn't there anymore. It was just because
12 the amount of errors that were in the
13 system were amounting to like -- Melissa
14 was helping and she was an expert and she
15 couldn't clear everything that was there.

16 Q. So, did you feel that you were
17 being held responsible for something that
18 was not in your control?

19 A. Maybe I felt that -- that John
20 was thinking that I wasn't making an
21 effort.

22 Q. And the second page here, right,
23 the attachment that you --

24 A. Yes.

25 Q. -- received, what is this? Can

1 Suarez

2 you explain to us what this is?

3 A. I think, um, this was made by
4 Melissa. This is how she worked in
5 upstate. That's what she usually does.
6 Like, but the errors she finds in upstate
7 system, she told me it was two or three
8 errors. Like, ours was mounting to
9 thousands of errors.

10 Q. So was this -- was the attachment
11 a to-do list for you to follow?

12 A. Yes. And I worked with her,
13 like, for I guess a couple of weeks doing
14 this.

15 Q. Okay.

16 A. Or maybe a week. I don't
17 remember exactly, but she was there.

18 Q. When you say you were working
19 with her on this, were you working with her
20 on putting together the attachment --

21 A. No.

22 Q. -- or she gave this to you and
23 you were working with it?

24 A. Yes.

25 Q. And communicating with her?

1 Suarez

2 A. It's like Steven from upstate,
3 she -- he gave me guides for the cycle
4 counters to work. She gave me days to
5 follow how -- this is how she worked
6 upstate, I understood at that point.

7 Q. Okay.

8 A. And I was trying to copy her,
9 whatever she did upstate.

10 Q. Got it. So, these were all the
11 tasks that you needed to do?

12 A. Yes.

13 MS. CABRERA: Okay. I'm going to
14 ask the witness be shown Exhibit
15 Number 11.

16 (Thereupon, the document was
17 marked Defendant's Exhibit 11 for
18 identification, as of this date.)

19 THE WITNESS: Thank you very
20 much. Yes, I do remember this.

21 BY MS. CABRERA:

22 Q. Can you explain to me what was
23 going on here?

24 A. They wrote me up.

25 Q. And why did they write you up?

<p style="text-align: right;">101</p> <p>1 Suarez 2 identification, as of this date.) 3 BY MS. CABRERA: 4 Q. Do you recognize Exhibit Number 12? 5 A. I haven't... 6 Q. Would you like to take a minute? 7 A. Yes. Can we take our break right 8 now? 9 Q. Yes. Is that what you would like 10 to do? 11 A. Yes. 12 Q. How long do we want to take? 13 MS. CABRERA: Let's go off the 14 record. 15 THE VIDEOGRAPHER: We are going 16 off the record. The time is 1:52 p.m. 17 This is the end of media number four. 18 (Brief break.) 19 THE VIDEOGRAPHER: We are back on 20 the record. The time is 2:47 p.m. 21 This is the start of media number five. 22 BY MS. CABRERA: 23 Q. Thank you. 24 Ms. Suarez, you understand that 25 you are still under oath, right?</p>	<p style="text-align: right;">103</p> <p>1 Suarez 2 Q. Do you know who Eric Meyer is? 3 A. Yes, I remember him. 4 Q. What was his job? 5 A. I'm not sure. He was from 6 Florida, I understood. He was from the 7 corporate offices. 8 Q. I want you to read -- you don't 9 have to read it out loud but sort of read 10 it to yourself, Eric's message. 11 A. Yes. 12 Q. And what I want to know from his 13 message is if there is anything incorrect 14 about what he is saying. 15 A. No. 16 Q. Okay. 17 A. Actually, he told me, and Melissa 18 told me that we were having the same issues 19 upstate had when they started with WMI. 20 All these adjustments, every cycle count is 21 one adjustment. Every, um, um, every 22 moment our warehouse man scans one case or 23 a scanner scans one case, it's an 24 adjustment. 25 So accounting was having trouble</p>
<p style="text-align: right;">102</p> <p>1 Suarez 2 A. Yes. 3 Q. Okay. Before we took our break, 4 I gave you Exhibit Number 12 to review. So 5 if you could please put Exhibit Number 12 6 in front of you and let me know when you 7 have had the opportunity to review it. 8 A. Yes. 9 Q. Do you recognize Exhibit Number 12? 10 A. Yes. 11 Q. The bottom looks to be an email 12 from you to NYM-inventory control. Do you 13 see that? 14 A. Yes. 15 Q. And so, can you explain for me 16 what this is that, that you sent to NYM- 17 inventory control? 18 A. I was supposed to send my 19 adjustments to that group. 20 Q. And is this something you did 21 daily? 22 A. A few times a day. 23 Q. And then above there is a 24 response from Eric Meyer. Do you see that? 25 A. Yes.</p>	<p style="text-align: right;">104</p> <p>1 Suarez 2 analyzing all these adjustments daily. And 3 what he said is true, it's true, and I 4 tried to comply as much as possible 5 especially with large amounts. And here is 6 only one example, but there were so many 7 other instances and with smaller amounts. 8 MS. CABRERA: Okay. I'm going to 9 ask that the witness be given what has 10 been marked as Exhibit 13. 11 (Thereupon, the document was 12 marked Defendant's Exhibit 13 for 13 identification, as of this date.) 14 THE WITNESS: Thank you. 15 Okay, I read it. 16 BY MS. CABRERA: 17 Q. Do you recognize Exhibit Number 13? 18 A. Yes. 19 Q. And what do you recognize about it? 20 A. It was a memo sent by John 21 Wilkinson to me. 22 Q. And did you -- and did you meet 23 with John in person about this memo? 24 A. I don't remember, but I must have 25 because my signature is there.</p>

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1 Suarez
 2 Q. And the first line, it says that
 3 "This memo serves as a follow up to our
 4 conversation on December 16, 2016."
 5 Did you have a conversation with
 6 John on December 16th of 2016?
 7 A. I don't remember having one, but
 8 I must have.
 9 Q. Well, when you received this memo
 10 and it says, "This memo serves as a follow
 11 up to our conversation" --
 12 A. Yes.
 13 Q. -- "on December 16" --
 14 A. So that's why I say I must have
 15 meet with him on that date, yes.
 16 Q. So you don't remember it and you
 17 don't dispute that --
 18 A. That's correct.
 19 Q. Understood, thank you.
 20 Um, does the memo accurately
 21 reflect what you talked about on
 22 December 16th of 2016?
 23 MR. MOSER: Objection.
 24 THE WITNESS: I don't remember,
 25 but, um, all these points are in

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1 Suarez
 2 for the daily checklist by December 30, 2016."
 3 Did you do that? Did you prepare
 4 a proposal for the daily checklist?
 5 A. I don't remember. I don't
 6 remember what was asked or what kind of
 7 daily checklist is asked, was asked.
 8 Q. Okay.
 9 A. I guess all the counts or all the
 10 discrepancies or issues that were in the
 11 system against the things that were
 12 corrected that day. But it's only a guess
 13 at this point.
 14 Q. And then starting at the bottom
 15 of page two and continuing on to page three --
 16 A. Uh-huh.
 17 Q. -- there are three bullet points
 18 that list your responsibilities as WMI
 19 administrator.
 20 A. Yes.
 21 Q. Did John list any responsibilities
 22 in this document that you believed were not
 23 your responsibilities?
 24 A. No, I don't think so, and I was
 25 doing all that.

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1 Suarez
 2 accordance with the tasks given by
 3 Melissa, this attachment over here
 4 (indicating). So I started working on
 5 that since October 26th.
 6 BY MS. CABRERA:
 7 Q. Okay. So, you're saying that --
 8 I just want to make sure I understand what
 9 you're saying, okay?
 10 A. Uh-huh.
 11 Q. So if I'm wrong, you can tell me
 12 I'm wrong.
 13 Um, so are you saying that the
 14 tasks that are being addressed in
 15 Exhibit 13 are the ones that were attached
 16 to Exhibit 10?
 17 A. Yes.
 18 Q. Okay. Um, and then I'm going to
 19 ask you to turn -- well, actually, on the
 20 second page, in the middle of the page,
 21 there is a paragraph that starts: "At the
 22 end of every day."
 23 A. Yes.
 24 Q. Okay. The last line in that
 25 paragraph says: "Please submit a proposal

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1 Suarez
 2 Q. And at the bottom of the page
 3 there is a signature. Is that your
 4 signature on the left?
 5 A. Yes.
 6 Q. After you received this document,
 7 did you meet with John weekly?
 8 A. I meet with him and Tonisha
 9 Durant a few times. I don't remember if it
 10 was weekly.
 11 MS. CABRERA: I'm going to ask
 12 the witness be given what has been
 13 marked as Exhibit Number 14.
 14 (Thereupon, the document was
 15 marked Defendant's Exhibit 14 for
 16 identification, as of this date.)
 17 THE WITNESS: Okay, I have read
 18 it.
 19 BY MS. CABRERA:
 20 Q. Do you recognize Exhibit Number 14?
 21 A. Yes, I think this was before or
 22 at the same time as the previous memo.
 23 Q. Are you saying that you got, you
 24 got it together, this, with the memo?
 25 A. Yes.

1 Suarez
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2 Q. I'm going to ask that you turn to
3 the last page.

4 A. Uh-huh.

5 Q. Um, in the box where it says
6 "Employee Statement," the box checked off
7 says: "I disagree with employer's
8 statement. Please explain below." And
9 below, it was written in "reviewing
10 document."

11 A. Yes.

12 Q. Is that your note in there,
13 "reviewing document"?

14 A. Yes.

15 Q. Okay. Can you tell me today what
16 it is that you disagree with in Exhibit
17 Number 14? And, and just so that I want to
18 make sure we get everything, that we start
19 from the beginning.

20 A. Yes.

21 Q. So start from the first page and
22 you can walk me through each paragraph and
23 tell me, you know, where there is something
24 that you disagree with.

25 A. There must be an email in

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1 Suarez
110

2 response to this, um, to John Wilkinson
3 and/or, or to Beth or Tonisha or to all of
4 them.

5 Q. Okay.

6 A. I, I explained every single
7 point. This was October, November and
8 December. There was so many mistakes,
9 errors made, but not by the system but the
10 people managing or working in the system.

11 I was trying to do my best, and
12 that's what I explained to John. But when
13 I have thousands of issues every day and
14 I'm supposed to double check the cycle
15 counters' work and be in the warehouse
16 floor constantly, which I did, um, we
17 needed more help. And I did ask Tonisha to
18 take some of these issues, and she did
19 help. She did sometimes closings, she did
20 sometimes -- everything that was to be done
21 in the computer, she helped, so I had more
22 time to be on the floor.

23 Everybody helped and, and if
24 there were issues, they were resolved in
25 January because in January everything

1 Suarez
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2 calmed down, and while I prepare for
3 inventory all the issues were resolved.

4 Q. When you say that Tonisha helped,
5 was that before or after you got Exhibit
6 Number 14?

7 A. I think she always helped.

8 Q. Okay. Looking at the first
9 paragraph, okay, it says: "On September 2,
10 2016 you and I met with," HR, "Human
11 Resources to review performance
12 expectations in your new role as WMI
13 Administrator. I explained at the time
14 that you had not been cooperative with the
15 WMI subject matter experts that had been
16 brought in for training and initial set
17 up."

18 Did you discuss that with John,
19 this continued issue that you --

20 A. It wasn't a continued --

21 Q. Let me just finish.

22 A. Sorry.

23 Q. Let me rephrase.
24 He keeps bringing it up.

25 A. Uh-huh.

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1 Suarez
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2 Q. Okay? And so my question to you
3 is -- here we are, this is now January,
4 right?

5 A. Yes.

6 Q. It's about six months into the
7 implementation. Okay. And he is still
8 saying that you have not been cooperative
9 with the WMI subject matter experts.

10 Did you discuss that with him?

11 A. I don't remember, but I must
12 have. At this point, there were no more
13 people from other places in the warehouse,
14 so he went back to the original email, I
15 guess, about Daniel. Um, I don't remember
16 the subject, "siting with Daniel," which is
17 Exhibit 8.

18 And, as I said before, all these
19 bullet points on the memorandum is, it was
20 already addressed by Melissa giving me the
21 tasks, the weekly and daily tasks to perform.

22 And if we go back to
23 December 2016, I'm pretty sure we can find
24 thousands of errors. And, like I explained
25 to, to John, if you can only pinpoint a few

1 Suarez
 2 of them, my performance is excellent
 3 because I'm solving all these thousands of
 4 errors, and you can only find maybe six
 5 errors that I wasn't able to solve.

6 That was my explanation. And
 7 Tonisha was there, Beth was there, and I
 8 think there is an email explaining every
 9 single point here.

10 Q. Okay. But I'm asking you today
 11 to explain it to me.

12 A. I don't remember. I don't even
 13 remember these -- um, this is very technical.

14 Q. Okay. Well, let me try to ask
 15 this question differently, Ms. Suarez.

16 This is -- Exhibit Number 14 is
 17 about maybe the fourth or fifth time John
 18 is referring to you as being uncooperative
 19 with the people who are helping, okay, who
 20 helped, right?

21 A. Uh-huh.

22 Q. My question to you is: What did
 23 you say to John in response to that issue?
 24 Specifically that issue, that's all I want
 25 to talk about. The issue about you being

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 1 Suarez
 2 uncooperative with the trainers, what did
 3 you say to him?

4 A. I don't remember very well right
 5 now. There must be an email answering his
 6 memo from me to him, but I'm -- all I can
 7 tell you right now, that all these three or
 8 four times he is referring to the same
 9 issue with Daniel. I don't think Melissa
 10 can say that I was uncooperative and I
 11 didn't cooperate with her, um, that I
 12 didn't do what she told me to do, that I
 13 didn't follow her assignments, daily and
 14 weekly assignments. Um, I can only guess
 15 right now that every time he refers to
 16 that, he goes back to the email, "sitting
 17 with Daniel."

18 Q. Okay. Even though -- and each
 19 time he refers to it, he refers in plural;
 20 he says "experts."

21 MR. MOSER: Object.

22 BY MS. CABRERA:

23 Q. He doesn't say "expert." You
 24 still think he is just talking about
 25 Daniel?

1 Suarez
 2 A. I don't remember the -- he listed
 3 three names. I only remember Melissa. I
 4 don't remember the other two names.
 5 Q. The second paragraph says:
 6 "Additionally it was agreed that Melissa
 7 Johnson from Upstate would spend another
 8 week with you training on WMI administration.
 9 The training took placed (sic) the week of
 10 October 24th."

11 Did that happen, did Melissa
 12 spend another week with you?

13 A. Yes. This is -- we already went
 14 through this. That's, that's when she gave
 15 me the weekly and daily tasks.

16 Q. Okay. I believe that's
 17 Exhibit 10. Let's make sure we're right.

18 A. Yes.

19 Q. So it was during that week that
 20 she gave you those, that additional list?

21 A. Yes.

22 Q. Okay. His last, the last
 23 paragraph on this page says -- the second
 24 line says: "At no time have you requested
 25 assistance or informed me that you are not

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 1 Suarez
 2 completing the tasks expected of you."
 3 What was your response to John
 4 about that?
 5 A. I don't remember what my reply to
 6 him was. But I did request assistance, and
 7 Melissa was helping me from upstate doing
 8 some tasks, and Tonisha was helping me as
 9 well, and I must have requested their help.
 10 Q. Do you know why John was thinking
 11 that you were not asking any help?
 12 A. If I know why? I don't know. He
 13 needed to write this memorandum, put
 14 something on it.

15 Q. So, you're saying that he wrote
 16 something false in this memorandum? Is
 17 that what you're telling me?

18 A. I did ask for help. If I got
 19 help, it's because I requested help.

20 Q. So you think John knew that you
 21 were asking for help and he lied in this
 22 document?

23 A. I don't know what he was thinking.
 24 MS. CABRERA: I would ask the
 25 witness be shown what's marked as

1 Suarez
2 Exhibit Number 15.

3 (Thereupon, the document was
4 marked Defendant's Exhibit 15 for
5 identification, as of this date.)

6 THE WITNESS: Okay.

7 BY MS. CABRERA:

8 Q. Do you recognize Exhibit Number 15?

9 A. Yes.

10 Q. So Exhibit Number 15 looks like
11 it's an email from John Wilkinson to you
12 with a copy to Elizabeth Toohey from Human
13 Resources.

14 There are eight items listed in
15 this, in Exhibit Number 15.

16 My question to you is: With each
17 one of these items, does John, did John
18 incorrectly state anything on any of these
19 items? And you can take them one at a
20 time.

21 A. No, I don't remember very well
22 every instance. But, um, he acknowledged
23 that everything is going in the right way,
24 is being resolved and that upstate and
25 Tonisha are helping me, so -- and him

1 Suarez
2 item number six, it says: "Wave management

3 is being handled by Jen Moore from day
4 bills and Barry F" -- is that Finkelstein?

5 A. Yes.

6 Q. -- "is doing the closing of wave
7 management on night bills. Tonisha and I
8 agreed that you should once again take this
9 responsibility over on February 1st of 2017."

10 So, was wave management something
11 that you were doing and they had asked
12 someone else to cover that?

13 A. Yes.

14 Q. And do you know why they asked
15 them to cover it?

16 A. Like everything else, to help me
17 a little bit, you know. Everything had to
18 do with cycle counts. Every single issue,
19 it had to be resolved by a cycle count.
20 So, um, and I have to double check my
21 counters' tasks, and that means that I have
22 less time to cover all the other issues
23 that were a carryover from the previous
24 year.

25 Q. So you saw this as -- when, when

1 Suarez
2 himself, he said he's helping me with other

3 warehouse managers to resolve all the
4 issues from the previous year because the
5 end of the year is very hectic.

6 Q. So it's true that that was
7 occurring, that others were helping --

8 A. Yes.

9 Q. -- and John was helping?

10 A. Yes, as per my request.

11 Q. It also looks like there are some
12 items that were not completed, but he's
13 saying that they are -- that it's okay,
14 that they understand some things are
15 changing and that's okay. Do you see that?

16 A. Yes. The number of issues that
17 were carried over from the previous year,
18 from 2016, were so numerous that it was
19 impossible for one person to fix all the
20 issues. So, that's why Melissa and Tonisha
21 were helping me, John Wilkinson was helping
22 me, and he acknowledged that the amount of
23 issues was, um, unmanageable at that point.
24 But they were being resolved.

25 Q. And if you look at number six,

1 Suarez
2 wave management is being given to Jen

3 Moore, right, that was to help you. Is
4 that your understanding of why that was
5 done?

6 A. Yes.

7 Q. Did you take wave management over
8 in February?

9 A. I don't remember.

10 But before that, wave management
11 is the closing of the previous night
12 operations. I think I was doing it in
13 December and at the beginning of January
14 just because the production didn't finish
15 until the following morning. So the night
16 manager was already gone when they, when
17 everything was shipped. So that's why I
18 was doing it. And maybe, um, in February,
19 I was only, like, to check that everything
20 was closed properly because I don't think
21 that in February the production will keep
22 going until the following day.

23 Q. And Barry Finkelstein, what was
24 his position?

25 A. At that point, he was warehouse

1 Suarez
2 manager.

3 Q. So at this point, was he
4 referring to the night manager wasn't even
5 doing it, Barry had stepped in to do it?

6 A. Yes.

7 Q. Ms. Suarez, do you remember how
8 John would go about scheduling these
9 meetings with you?

10 A. No, I don't remember at this
11 moment.

12 MS. CABRERA: I ask this be
13 marked as 16.

14 (Thereupon, the document was
15 marked Defendant's Exhibit 16 for
16 identification, as of this date.)

17 THE WITNESS: Okay.

18 BY MS. CABRERA:

19 Q. Does exhibit -- withdrawn.

20 Do you recognize Exhibit Number 16?

21 A. Yes.

22 Q. And what do you recognize it as?

23 A. That's a meeting scheduling.

24 That's a system that it got to all of us
25 through email.

1 Suarez
2 meeting?

3 A. Yes, um, I don't remember
4 specifics, but it looks accurate.

5 MS. CABRERA: I will have this
6 marked as Exhibit Number 18.

7 (Thereupon, the document was
8 marked Defendant's Exhibit 18 for
9 identification, as of this date.)

10 BY MS. CABRERA:

11 Q. Do you recognize number 18?

12 A. Yes.

13 Q. And what is number 18?

14 A. Another meeting schedule.

15 Q. I had asked you earlier if after
16 the December 2016 meeting, if you recalled
17 how frequently you met with John. And you
18 did not recall.

19 So I just want to know if
20 Exhibit 18 refreshes your recollection as
21 to having a meeting on February 14, 2017.

22 A. Yes. It looks like we met four
23 weeks in a row.

24 MS. CABRERA: Mark this as 19.
25 (Thereupon, the document was

1 Suarez

2 Q. Does this refresh your
3 recollection --

4 A. Yes.

5 Q. -- as to how John would schedule
6 meetings?

7 A. Yes. I don't think he scheduled
8 all the meetings this way, though.

9 MS. CABRERA: I ask this be
10 marked as 17.

11 (Thereupon, the document was
12 marked Defendant's Exhibit 17 for
13 identification, as of this date.)

14 BY MS. CABRERA:

15 Q. Before you look at Exhibit 17,
16 Ms. Suarez, do you recall how else he would
17 schedule a meeting if he didn't send you an
18 invite?

19 A. Phone call is my guess. I don't
20 remember.

21 Q. Okay. I'm sorry, you can look at
22 17 and let me know when you're ready.

23 A. Okay.

24 Q. My question on Exhibit Number 17
25 is: Is this an accurate recap of your

1 Suarez

2 marked Defendant's Exhibit 19 for
3 identification, as of this date.)

4 THE WITNESS: Okay, finished
5 reading.

6 BY MS. CABRERA:

7 Q. Do you recognize Exhibit Number 19?

8 A. Yes.

9 Q. And what do you recognize this to
10 be?

11 A. We had a meeting on 3/8/2017, and
12 then he mailed me a review for that day.

13 Q. And is this an accurate review of
14 the meeting that you had?

15 A. Yes. As it is stated here, I was
16 on vacation, and, and the review was for,
17 like, how Tonisha handled all the issues
18 while I was away.

19 Q. Number 9 says: "Emails -- These
20 were kept up to date by Ena Scott while you
21 were out on vacation and she will continue
22 to assist as needed."

23 Did Ena continue to help you with
24 emails?

25 A. I don't remember, but I think so.

1 Suarez
 2 The emails, the inquiries by customer
 3 service and the sales force was taken away
 4 from us for, since July 2016 until, I
 5 guess, Tonisha do this job on the weeks I
 6 was away. It looks like she realized that
 7 we needed to continue to replying emails
 8 through my department.

9 MS. CABRERA: Got it. Okay.
 10 Can I have this marked as number
 11 20, please?

12 (Thereupon, the document was
 13 marked Defendant's Exhibit 20 for
 14 identification, as of this date.)

15 THE WITNESS: Okay.

16 BY MS. CABRERA:

17 Q. So, I apologize because
 18 Exhibit 20 appears to be two emails sent on
 19 the same day. It looks like the second one
 20 was the first one, though. Okay?

21 A. Um, the second page, although it
 22 has a different date, is the same one
 23 that -- on Exhibit 17, it looks like it was
 24 sent on March 8th and then again on
 25 March 21st.

126 Suarez

2 Q. Yes. And then -- and that was
 3 sent again on March 21 at 10:01 p.m. And
 4 then the next email was sent at 10:04 p.m.
 5 So that's what I meant they were -- the
 6 second page should have been in front of
 7 the first page.

8 A. Yes, but, like, if you see, this
 9 more than a month after the meetings. So
 10 he sent on 3/21 on a meeting on 2/14 and a
 11 meeting of 2/7.

12 Q. Well, we --

13 A. But the 2/7 was already sent.

14 Q. If you look at the top --

15 A. Uh-huh.

16 Q. -- right, of Exhibit 20, the
 17 first page --

18 A. Yes.

19 Q. -- it says: "This is to review
 20 what we met about and discussed with
 21 Tonisha today."

22 A. Yes.

23 Q. And so, are you telling me that
 24 what he listed here was not discussed on
 25 March 21st of 2017?

1 Suarez

2 A. No, it was discussed on 2/14/2017.
 3 Or the subject is incorrect.
 4 Q. Well, that's what I'm trying to
 5 ask you. One of them is incorrect, right?
 6 A. Yes.

7 Q. It's either the subject matter is
 8 incorrect or his first line saying "This is
 9 to review what we met about and discussed" --

10 A. I think the subject is correct
 11 because, um, that's management and he talks
 12 about from 2/1 to 2/7. So...

13 Q. So, that tells you that this was
 14 the recap from your 2/14 meeting?

15 A. Yes.

16 Q. Okay. And that was Exhibit
 17 Number 18, is that correct, the meeting
 18 invite?

19 A. Yes.

20 Q. And so is this an accurate recap
 21 of that meeting?

22 A. Yes, I think so.

23 MS. CABRERA: I ask this be
 24 marked Exhibit 21.

25 (Thereupon, the document was

1 Suarez

2 marked Defendant's Exhibit 21 for
 3 identification, as of this date.)

4 THE WITNESS: Okay.

5 BY MS. CABRERA:

6 Q. Do you recognize Exhibit Number 21?

7 A. Yes. It is the same as Exhibit 19.

8 Q. And when you say, "It is the same
 9 as Exhibit 19," what do you mean exactly?

10 A. That the meeting date is
 11 different, but the review is the same.

12 Q. Well, we will put that aside.

13 You can keep Exhibit 19 to the side.

14 A. Okay.

15 Q. Before we -- you can, like, leave
 16 it on the side. I will ask you some
 17 questions about that.

18 Um, but first, Exhibit 21, was
 19 this -- is this an accurate recap of your
 20 meeting?

21 A. Yes.

22 Q. Drawing your attention to item
 23 number six, it says: "Wave management --
 24 great shape." Do you see that?

25 A. Yes.

1 Suarez

2 Q. And that was one of the things
3 that others were helping, and then they
4 gave you that responsibility back, is that
5 correct?

6 A. Yes, but I don't remember if they
7 were still helping with it or I was doing
8 it. It looks like after my vacation, I was
9 doing everything again.

10 Q. Going back to -- withdrawn.

11 Jen Moore was one of the people
12 that was covering that before, correct?

13 A. I don't remember. I think it was
14 Barry more doing that, but I could be
15 mistaken.

16 Q. Could it have been -- I'm going
17 to ask you to pull Exhibit Number 15, please.

18 A. Okay.

19 Q. And I will direct your attention
20 to item number six, and let me know if that
21 refreshes your recollection as to who was
22 covering wave management.

23 A. Yes.

24 Q. My question is: What was Jen
25 Moore's title?

1 Suarez

2 A. Administrative assistant.

3 Q. Okay.

4 A. But she is doing the day bills.
5 Barry was doing the closing for the, the
6 night waves.

7 Q. And when you took it over, you
8 were doing the night closing, or you were
9 doing both?

10 A. I think I was doing both. And
11 then the night managers -- like, this goes
12 back to on November and December that we
13 were helping the night manager. The wave
14 management for operations, for night
15 operation, is supposed to be closed by the
16 night manager. So, Jennifer was closing
17 the waves for day bills. Day bills is only
18 a few.

19 Q. Okay.

20 A. And I don't know if I was doing
21 that or not at this point. I think I went
22 back to doing the day bill closing.

23 MS. CABRERA: I ask that this be
24 marked as Exhibit 22.

25 (Thereupon, the document was

1 Suarez

2 marked Defendant's Exhibit 22 for
3 identification, as of this date.)

4 THE WITNESS: Okay.

5 BY MS. CABRERA:

6 Q. Do you recognize the emails in
7 Exhibit 22?

8 A. Yes.

9 Q. It appears --

10 A. Yes.

11 Q. -- these are two, these are two
12 different emails. So starting on the last
13 page, so starting backwards, it looks like
14 it was sent on Thursday, April 13th, and
15 then the first line says: "This is to
16 review what we met about and discussed with
17 Tonisha today April 7th."

18 And there are 11 items listed,
19 correct? Is that correct?

20 A. Yes, but something is wrong.

21 Q. I'm going to ask you a question,
22 okay? And then it appears the email in
23 front of it was also sent on Thursday,
24 March 13, 12 minutes later. And at the top
25 it also says: "This is to review what we

1 Suarez

2 met about and discussed with Tonisha today
3 April 7th." Is that correct?

4 A. Yes.

5 Q. So, did he send you these two
6 emails on the same day?

7 A. It looks like. But the first
8 email, the one that was sent at 6 p.m., um,
9 it listed the same review as Exhibit 19,
10 yes, for three -- for March 8th.

11 Q. Well, during these meetings,
12 aren't you reviewing the same issues?

13 A. Yes.

14 Q. In fact, it looks like the second
15 email he sent you on the 12th --

16 A. Uh-huh.

17 Q. -- it seems like he took some
18 things off the list, is that correct?

19 A. Yes.

20 Q. It also appears that he corrected
21 item number 9. Do you see that?

22 A. (Thereupon, the witness nods in
23 the affirmative.)

24 Q. So at 6 o'clock --

25 A. Yes.

1 Suarez

2 Q. -- he is indicating that the
3 reconciliation report is currently two and
4 a half pages long. But then 12 minutes
5 later, he said it's currently one page
6 long, 45 items.

7 A. (Thereupon, the witness nods in
8 the affirmative.)

9 Q. Do you know -- withdrawn.

10 Was that a result of you
11 communicating with John about what he had
12 listed at 6 o'clock?

13 A. Probably, but I don't remember at
14 this moment.

15 Q. And is this an accurate recap of
16 your meeting with him on April 7th?

17 A. The second email, the one at 6:12?

18 Q. Yes.

19 A. Yes, I think so.

20 MS. CABRERA: I would ask that
21 this be marked as Exhibit Number 23.

22 (Thereupon, the document was
23 marked Defendant's Exhibit 23 for
24 identification, as of this date.)

25 BY MS. CABRERA:

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1 Suarez

2 Q. Are you ready?

3 A. Yes.

4 Q. Do you recognize Exhibit Number 23?

5 A. Yes.

6 Q. What do you recognize it as?

7 A. It looks like a recap of another
8 meeting, although it's a similar as other
9 recaps.

10 Q. Well, this recap seems to be
11 saying that you've resolved most of the
12 issues, doesn't it?

13 A. Yes.

14 Q. In fact, in areas where things
15 may not be completely done, in here John
16 seems to be including the reasons that you
17 provided for why they were not done.

18 A. Yes. As you pointed out before,
19 we reviewed the same issues every week, it
20 looks like every week.

21 Q. But this recap is a lot shorter
22 than all the other recaps, right?

23 A. Okay, yes.

24 Q. And on the first page of 23, it
25 looks like it's an email exchange where

1 Suarez

2 John is emailing you, asking if you were
3 coming, and you respond, is that correct?

4 A. Yes.

5 Q. Did that happen sometimes, that
6 you didn't see the invite?

7 A. I don't think there was an invite
8 this time.

9 Q. Okay. So when you say, "I didn't
10 see the invite, I will be right there," you
11 weren't sure if there had been an invite
12 sent?

13 A. Yes, I guess that's why I emailed
14 that like I didn't see it. I didn't know
15 that there was a meeting.

16 MS. CABRERA: Mark this 24.

17 (Thereupon, the document was
18 marked Defendant's Exhibit 24 for
19 identification, as of this date.)

20 THE WITNESS: Okay, I remember
21 this.

22 BY MS. CABRERA:

23 Q. So you recognize Exhibit Number 24?

24 A. Yes.

25 Q. And what do you recognize it to be?

1 Suarez

2 A. It was a write-up about, um, an
3 error in the system. They said it was
4 caused by me. It was not. And I got it
5 like a month later from when this happened.
6 So it was hard to backtrack and really
7 pinpoint what happened.

8 Q. Well, I want to direct your
9 attention to the first paragraph on the
10 first page.

11 A. Yes.

12 Q. Where -- it says: "On
13 November 7, 2017, you processed 34 counts
14 in error. You did not notify anyone of
15 this error until you received an email from
16 Tonisha Durant, Inventory Control Manager
17 on 11/8 inquiring of the reason why you
18 consumed 90 cases of Whispering Angel. It
19 wasn't until receipt of that email did you
20 advise of the error you made the day before
21 and that you would be conducting a full sku
22 cycle count to balance the inventory."

23 I want to talk about this
24 paragraph alone. Okay?

25 A. Yes.

1 Suarez
 2 Tonisha. It was me who emailed her because
 3 I don't think -- I remember seeing
 4 something and calling or emailing Tonisha
 5 right away. This was early in the morning.
 6 This was the moment I walked into the
 7 company. And about some lost product the
 8 night before.

9 Q. Okay.

10 A. And I think I emailed Tonisha
 11 something about it or called Tonisha
 12 something about it and -- but nobody
 13 emailed me about the supposed error that I
 14 had.

15 Q. Well, what I'm trying to
 16 understand --

17 A. Until a month later.

18 Q. Okay. What I'm trying to
 19 understand is that we are sitting here
 20 almost four years --

21 A. Yes.

22 Q. -- after this. And you seem to
 23 remember that you may have been the one to
 24 send the email. So why is it that a month
 25 after you did not make that the first thing

1 Suarez
 2 that you wrote here when, when the warning
 3 again is not about the error, but they are
 4 blaming you for not notifying anyone?

5 So you are telling me -- you are
 6 sitting here saying to me that you took the
 7 time to give an explanation, but at no
 8 point did you say, Hey, I was the one who
 9 emailed. You wrote everything else, but
 10 you didn't correct him on the issue that
 11 you were being written up for. Is that
 12 what you are telling me today?

13 A. You are saying that my wording
 14 was not correct? Um, I don't, I don't --
 15 that's the way I felt at that moment. I
 16 don't remember very well, but I, I think
 17 maybe my wording is not correct.
 18 Communication goes both ways. Maybe that's
 19 my way of saying what you just saying right
 20 now, that I was, I didn't receive any
 21 communication, that I was the one who
 22 communicated.

23 Q. Well, but then you go on to say:
 24 "It would have been much better to know
 25 about how my mistakes affected others

1 Suarez
 2 within a reasonable time not a month
 3 later."

4 So, you seem to be acknowledging
 5 that it was your mistake, but your issue is
 6 that they didn't tell you until a month
 7 later.

8 A. Maybe I'm acknowledging that it
 9 could have been a mistake.

10 MS. CABRERA: Okay. I'm going to
 11 ask that this be marked as Exhibit
 12 Number 25.

13 (Thereupon, the document was
 14 marked Defendant's Exhibit 25 for
 15 identification, as of this date.)

16 THE WITNESS: Okay.

17 BY MS. CABRERA:

18 Q. Do you recognize Exhibit Number 25?

19 A. No. I think it's the first time
 20 I'm reading it.

21 Q. Did you receive a performance
 22 appraisal from John in 2016?

23 A. I don't remember receiving one.

24 Q. Okay. I would like to draw your
 25 attention to the second page, two of five,

1 Suarez
 2 toward the bottom of the page just above
 3 the heading where it says "Inspiring
 4 Others."

5 A. Uh-huh.

6 Q. There is a -- it says "Comments
 7 by John Wilkinson." Okay. And it reads:
 8 "Maria strives for excellence and sets high
 9 standards for herself and her staff."

10 Is that a true statement?

11 A. It is.

12 Q. If you turn to page three of
 13 five, same area of the page under "Comments
 14 by John Wilkinson," it says: "Maria is
 15 very organized and plans very well. She's
 16 very effective at scheduling her staff and
 17 managing the processes that they need to
 18 perform on a daily basis."

19 Was that an accurate statement by
 20 John?

21 A. Yes.

22 Q. If you turn to the --

23 A. But --

24 Q. -- following page, page four of
 25 five, under "Talent Building," there is a

1 Suarez
 2 section that starts a little closer to the
 3 top of the page. It says "Talent
 4 Building," and he rated you as a solid
 5 performer, and under that he says: "Maria
 6 teaches her staff new skills and works with
 7 them so they are more productive. She
 8 builds talent through matter of fact style
 9 of teaching. While she builds the talent
 10 and makes her staff and others more
 11 valuable she does not do it through
 12 coaching. She removes growth barriers for
 13 her team members educating them on
 14 processes from analytical research. She
 15 delegates assignments to her staff's
 16 strengths and helps them to be more
 17 successful. Maria could offer more praise
 18 and learn coaching techniques to help
 19 improve her staff's productivity."

20 Was that an accurate statement by
 21 John?

22 A. All these look like accurate
 23 statements, but on my performance before
 24 when I was inventory control manager, um --
 25 this is 2016. Maybe includes some of the

1 Suarez
 2 bold. It says "Integrity." Okay?
 3 The second sentence there says:
 4 "She does manage her team and they appear
 5 to follow her lead."

6 Do you see that?
 7 A. Yes.
 8 Q. And so here in -- and this is for
 9 the year 2017. John is still referring to
 10 you managing a team, right?

11 MR. MOSER: Objection. The
 12 witness has already testified with
 13 regard to this in the preceding
 14 document that she doesn't even recall
 15 seeing them. Um, there's a whole bunch
 16 of assumptions that are being made
 17 because neither of these documents has
 18 been authenticated as even coming from
 19 John Wilkinson. So, just note my
 20 objection for the record.

21 MS. CABRERA: So, that's great.
 22 I would just ask counsel that you
 23 refrain from speaking objections as per
 24 the Federal Rules of Civil Procedure
 25 and you can just make your general

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 1 Suarez
 2 time that I was still inventory control
 3 manager. Um, I don't remember seeing this,
 4 so I can't say. But I consider that a true
 5 statement.

6 MS. CABRERA: I would ask this be
 7 marked as Exhibit Number 26.

8 (Thereupon, the document was
 9 marked Defendant's Exhibit 26 for
 10 identification, as of this date.)

11 THE WITNESS: Thank you.

12 Okay.

13 BY MS. CABRERA:

14 Q. Do you recognize Exhibit Number 26?

15 A. No, I do not.

16 Q. And did anyone ever give this to
 17 you?

18 A. I don't remember seeing it.

19 Q. Did anyone ever discuss a 2017
 20 end-of-year performance with you without a
 21 document?

22 A. No, I don't remember discussing it.

23 Q. I'm going to direct your
 24 attention to the second page. They are
 25 saying, section bullet -- well, it's in

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 1 Suarez
 2 objection. Thank you.
 3 BY MS. CABRERA:
 4 Q. So, Ms. Suarez, my question to
 5 you is: On the second page of this
 6 document, it appears that John is still
 7 referring to you managing a team. Is that
 8 what you see on the second page of this
 9 document?

10 A. That's what it reads here.

11 Q. I'm going to ask you to pull
 12 Exhibit Number 7, please.

13 A. Yes.

14 Q. From the time that you received
 15 Exhibit Number 7, and it's dated May 4,
 16 2016, up through 2017, covering that time
 17 period, did you ever receive a letter like
 18 Exhibit Number 7 changing your job title?

19 A. No, I did not.

20 Q. And at any point was your salary
 21 changed?

22 A. No, it wasn't.

23 MS. CABRERA: I believe we are
 24 going to -- we need to take -- the
 25 videographer is going to need a break,

1 Suarez
 2 and this is a good point for us to take
 3 a break. So, do you want to take,
 4 like, ten minutes?

5 MR. MOSER: Sounds good.

6 THE VIDEOGRAPHER: We are going
 7 off the record. The time is 4:26 p.m.
 8 This is the end of media number five.

9 (Brief break.)

10 THE VIDEOGRAPHER: We are back on
 11 the record. The time is 4:46 p.m. This
 12 is the start of media number six.

13 BY MS. CABRERA:

14 Q. Ms. Suarez, did there come a time
 15 that your employment ended?

16 A. Yes.

17 Q. And when was that?

18 A. April 2018.

19 Q. And who told you that your
 20 employment was ending?

21 A. Kevin Randall.

22 Q. And what did he say?

23 A. That my position was being
 24 eliminated.

25 Q. Did he tell you why?

1 Suarez
 2 2004 to 2018, and I explained that my
 3 employment started in April 2000, the year
 4 2000. And then I was advised by this HR
 5 person to talk to, to get legal counseling,
 6 and I did.

7 Q. Okay. And at that point, did
 8 your attorney communicate with the company?

9 A. Yes, I think so.

10 Q. Okay. Ms. Suarez, I want to draw
 11 your attention to your deposition testimony
 12 in the Sanjous versus Southern Glazer's
 13 Wine and Spirits case. Okay?

14 Were you deposed in that case?

15 A. Yes, I was.

16 Q. And if I told you that your
 17 deposition was on October 7th of 2016, do
 18 you have any reason to dispute that date?

19 A. No, I don't have any reason.

20 Q. Were you given a copy of your
 21 deposition transcript?

22 A. No, I was not.

23 Q. And who told you that you were
 24 going to be deposed in that case?

25 A. HR director, Elizabeth.

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 1 Suarez
 2 A. He said that the position was
 3 being eliminated all over. The WMI
 4 administrator was going to be eliminated
 5 all over United States.

6 Q. I'm sorry, all over?

7 A. The United States.

8 Q. The United States?

9 A. Yes.

10 Q. Got it. Okay.

11 And how much notice were you
 12 given?

13 A. None.

14 Q. Was the termination effective
 15 immediately?

16 A. Yes.

17 Q. And were you offered a severance
 18 package?

19 A. Yes.

20 Q. Did you accept it?

21 A. Not -- no.

22 Q. Why not?

23 A. First, the calculation that the
 24 HR person present at that moment explained
 25 to me was done incorrectly, was done from

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 1 Suarez
 2 Q. Elizabeth? Okay.
 3 And did you prepare for that
 4 deposition?
 5 A. Yes.
 6 Q. And how did you prepare?
 7 A. Um, the company attorney, um, met
 8 with me the day before for approximately
 9 one hour.
 10 Q. And when you say "the company
 11 attorney," do you know if it was an
 12 attorney that actually worked for the
 13 company, or was it an attorney that was
 14 hired by the company?
 15 A. I don't know for sure, but he
 16 repeated -- he said a couple of times, "I
 17 work for the company, not for you."
 18 Q. Okay. Do you remember his name?
 19 A. No, I don't.
 20 Q. Okay. And, um, you said you met
 21 for an hour the day before?
 22 A. Yes.
 23 Q. Who was in the room when you met?
 24 A. Only the both of us.
 25 Q. And how long was your deposition?

1 Suarez

2 A. I don't remember the length.

3 Q. Was it shorter than this today?

4 A. Yes, a lot shorter.

5 Q. Did you speak with anyone after
6 the deposition?

7 MR. MOSER: Objection.

8 MS. CABRERA: Withdrawn. I'm
9 going to rephrase that question.

10 BY MS. CABRERA:

11 Q. Did you speak with anyone at
12 Southern Glazer's about the deposition?

13 A. No, I did not.

14 Q. Did anyone speak to you about --
15 did anyone from Southern Glazer's speak to
16 you about the deposition, your deposition
17 testimony?

18 A. No. There was only one comment,
19 but nobody spoke directly to me.

20 Q. And what was the one comment?

21 A. John Wilkinson to Barry, I think
22 he was talking about his deposition.

23 Q. Oh, okay. So he didn't make a
24 comment about your deposition?

25 A. I took it that it was directed to

1 Suarez

2 tasks, that she replaced and did a great
3 job, um, in the receiving area as a
4 checker.

5 Q. And do you believe that the
6 testimony that you gave was bad for the
7 company?

8 A. It was -- it was supposed as was
9 recommended to say by the attorney the
10 previous day.

11 Q. What did the attorney recommend
12 that you say the previous day?

13 A. "I don't know. I don't remember."

14 Q. And the previous attorney told
15 you to say that even when you did know and
16 even when you did remember?

17 A. He didn't even ask me if I knew.

18 Q. Okay. Um, okay. So can you tell
19 me what was bad about what you testified
20 to?

21 A. I don't know if it was bad or
22 not. It was just that it was not what the
23 attorney trained me to say.

24 MS. CABRERA: Understood. Okay.
25 Understood.

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1 Suarez

2 me.

3 Q. Tell me why you thought it was
4 directed to you.

5 A. Because he said, "That's the way
6 you do it. If you are loyal to the
7 company, that's the way you do it. You say
8 'I don't remember, I don't know.'"

9 Q. And when in relation to your
10 deposition did he make that comment? Was
11 it before or after?

12 A. After. He was deposed after me.

13 Q. And do you have any personal
14 knowledge as to whether John saw your
15 deposition transcript?

16 A. No, I don't.

17 Q. And what did you, what did you
18 testify to at your deposition?

19 A. Um, basically, I was deposed
20 about Josie's duties.

21 Q. Okay. And what did you say about
22 Josie's duties?

23 A. That she worked in the warehouse,
24 that she wore safety shoes, safety vest,
25 that she performed warehouseman duties or

1 Suarez

2 Okay. I'm going to be -- I'm
3 going to ask that the witness be shown
4 Exhibit Number 27.

5 (Thereupon, the document was
6 marked Defendant's Exhibit 27 for
7 identification, as of this date.)

8 BY MS. CABRERA:

9 Q. Ms. Suarez, I'm going to ask
10 forgiveness from your counsel slightly in
11 the essence of time, okay? I'm
12 representing to you that Exhibit Number 27
13 is the complaint that you filed in this
14 matter. Okay?

15 A. Okay.

16 Q. And so I'm going to ask you to
17 just take a look at that. I'm going to ask
18 you some, some very specific questions.

19 A. Okay.

20 MS. CABRERA: So if it's okay
21 with counsel, if we can sort of go
22 through it together, or do you want to
23 give her time to go through the
24 document?

25 MR. MOSER: You can go through it

1 Suarez
2 with her --

3 MS. CABRERA: Okay.

4 MR. MOSER: -- and address
5 certain -- might be better to address
6 certain points.

7 MS. CABRERA: I think so, okay.

8 BY MS. CABRERA:

9 Q. Okay. So, do you have any reason
10 to believe that this is not the complaint
11 that you filed in this case?

12 A. No, I don't.

13 Q. Okay. So I'm going to direct
14 your attention to page number five,
15 paragraph number 33. And it says: "Ms.
16 Suarez believed that the women in her
17 department should be classified as
18 'warehouse' employees and brought this to
19 the attention of her direct supervisor,
20 John Wilkinson."

21 My question is: How did you
22 bring it to his attention?

23 A. I sent an email.

24 Q. And if you go down to paragraph
25 37, it says: "That same day, Ms. Suarez

1 Suarez

2 Q. Okay. And is that why it appears
3 on 39: "At approximately 1:30 PM on May
4 23, Ms. Wald-Margolis emailed Ms. Suarez.
5 Ms. Wald-Margolis agreed that 'the
6 subcategory seems to be different for 3 out
7 of the 4 employees,' but, 'guaranteed' that
8 the different classification was not 'based
9 on gender.'" Is that correct?

10 A. As far as I remember right now,
11 yes, it is correct.

12 Q. Did you and Ms. Wald-Margolis
13 have any discussion, or was it all via
14 email?

15 A. I think she called me over the
16 phone.

17 Q. Okay. And what do you recall
18 about that, about a conversation with her?
19 What do you recall her telling you during
20 that conversation?

21 A. I don't remember specifics, but I
22 remember she asking me if I think it will
23 be good for her to meet with the women in
24 my department, and she did meet with them.

25 Q. And were you present when she met

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1 Suarez

2 sent an email to John Wilkinson stating
3 that her 'team was classified differently
4 by payroll' and while she was sure it was
5 'just a mistake, it looks like they were
6 classified by sex."

7 Is that how you notified him?

8 A. Yes, I remember this being
9 correct, yes.

10 Q. And so that's the email that you
11 sent to notify him of this issue?

12 A. Yes.

13 Q. And did you -- actually, withdrawn.

14 Paragraph number 38 says:
15 "Wilkinson forwarded the email to Dina
16 Wald-Margolis of Southern's Human Resources
17 Department at approximately 1:00 PM on
18 May 2, 2013."

19 My question is: How did you know
20 that? How did you know that John had sent
21 the, your email to human resources?

22 A. I, I didn't know at the time, but
23 if -- I guess Dina told me or, or she
24 emailed me, and I saw John forwarding the,
25 my email to her.

1 Suarez

2 with them?

3 A. No, I was not.

4 Q. Did they talk to you about her
5 meeting with them?

6 A. No, they did not.

7 Q. I'm going to ask you to look at
8 paragraph 40.

9 A. Uh-huh.

10 Q. It says: "After May 2, 2013,
11 Wald-Margolis met with the three female
12 Inventory Control Clerks and unsuccessfully
13 attempted to convince them that they were
14 not being discriminated against based on sex."

15 How do you know what she told
16 them?

17 A. I don't know, but I guess my
18 attorney knows.

19 Q. So you don't have personal
20 knowledge about what...

21 A. What was said, no.

22 Q. -- she said to them? No, okay.
23 I'm going to draw your attention
24 to paragraph 51, and that's on page eight.
25 And it says: "Once the lawsuits were

1 Suarez
 2 filed, the Defendants engaged in a pattern
 3 of discrimination and retaliation against
 4 the Plaintiff."

5 And my question to you is: The
 6 paragraphs that come after that, from 52
 7 all the way to... from 52 all the way
 8 through paragraph 89, okay, are those all
 9 of the reasons why you believe that you
 10 were discriminated and retaliated against?
 11 And take your time. You know, go through
 12 them. I want you to.

13 But what I, what I want to know
 14 is if there is anything missing here, okay,
 15 if there is anything that maybe you forgot
 16 to put in here.

17 A. Up to what number you said?

18 Q. What number are you up to?

19 A. 82.

20 Q. Yeah, all the way down to 89.

21 A. Yes.

22 Q. So my question is: Does that --
 23 do those paragraphs contain everything that
 24 you believe was done to you in retaliation
 25 and you were being discriminated against?

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1 Suarez

2 A. Yes, as far as I can remember
 3 right now, yes. Although, um, number 78, I
 4 think we corrected those days afterwards.

5 Q. Got it.

6 A. I think it was the weekend of the
 7 Saturday, 29, not --

8 Q. Got it.

9 A. -- the week of November 4th.

10 Q. Okay. Um, I'm going to ask you
 11 just some questions about some of these,
 12 some of these things.

13 In paragraph 77, you state that
 14 on that particular Saturday, you had a
 15 pre-approved vacation. Who had approved
 16 your vacation?

17 A. Kevin Randall. But not for that
 18 day, right? I had an approved vacation for
 19 the week of -- I think it started on
 20 November 3rd. I have -- in order to
 21 respond accurately, I need to, to see the,
 22 um, the calendar. I...

23 Q. Okay. Let me, let me ask it to
 24 you this way, then --

25 A. Okay.

1 Suarez

2 Q. -- without having to look at a
 3 calendar. Okay?

4 When you did not work that
 5 weekend, the October 29th, October 30th
 6 weekend --

7 A. That Saturday.

8 Q. Correct, that Saturday.

9 A. The 29th.

10 Q. Did you have a pre-approved
 11 vacation for that day?

12 A. No, for the following week.

13 Q. Understood. So you were starting
 14 vacation Monday? Was that right?

15 A. No. I'm sorry, I don't remember
 16 exactly right now.

17 Q. That's okay. I'm trying to
 18 remember it more in the sequence of events,
 19 right? You said you picked up your parents
 20 on Saturday?

21 A. On Friday night, like midnight
 22 into Saturday morning.

23 Q. Okay. And so was your plan to be
 24 on vacation while your parents were in
 25 town?

1 Suarez

2 A. Yes.

3 Q. Okay.

4 A. Actually, we had a trip -- Kevin
 5 Randall was aware of the reason, the
 6 special reason he approved my vacation,
 7 that, um, we have a, block out days for
 8 vacation approval beginning in October to
 9 December.

10 Q. Okay.

11 A. But he approved because of the
 12 special reason I have. Like, I had my
 13 parents and we were planning a trip.

14 Q. Okay.

15 A. So, um, yes. Although the
 16 vacation was scheduled for the following
 17 week, he knew that I was picking my parents
 18 from the airport, up from, you know,
 19 midnight from Friday to Saturday.

20 Q. Understood. Okay.

21 Um, as a part of -- when you took
 22 -- when you started to perform the WMI
 23 administrator position --

24 A. Uh-huh.

25 Q. -- did you -- were you filling

1 Suarez
2 out timesheets at that point?

3 A. No, I did not.

4 Q. Do you have any personal
5 knowledge as to whether anyone else, anyone
6 on your team, had received a performance
7 evaluation for 2005?

8 A. For 2005?

9 Q. Yes.

10 A. There was no inventory control
11 team in 2005.

12 Q. Well, paragraph 55, you say:
13 "Southern did not furnish the Plaintiff
14 with a performance evaluation covering
15 2015."

16 I'm sorry, I'm saying 2005. I'm
17 saying 2005; it is 2015. In 2015, okay,
18 you indicated --

19 A. No, I don't know.

20 Q. Okay. You don't know if others
21 received performance evaluations? Okay.

22 A. (Witness shakes head in the
23 negative.)

24 MS. CABRERA: I'm going to ask
25 that the witness be given what has been

1 Suarez
2 questions?

3 A. I believe so.

4 Q. Okay. I want to ask you to turn
5 to page nine. Interrogatory number five
6 asks that you identify all the employers
7 that you have been employed with since
8 Southern Glazer's. I just want to confirm
9 if you listed four employers, if these are
10 all the employers that you have had.

11 A. Yes.

12 Q. And, and so for Lyft, it says
13 from September 2018 to the present.

14 So are you currently still
15 working as a Lyft driver?

16 A. No, not right now.

17 Q. When did you stop working as a
18 Lyft driver?

19 A. I think at the beginning of the
20 year. I had problems with my insurance.

21 Q. And is that the -- is it safe to
22 say the same for Uber?

23 A. Yes.

24 Q. What about Macy's?

25 A. I ended my job there in August

1 Suarez
2 marked as 28.

3 (Thereupon, the document was
4 marked Defendant's Exhibit 28 for
5 identification, as of this date.)

6 BY MS. CABRERA:

7 Q. Ms. Suarez, I'm going to
8 represent to you that Exhibit Number 28 are
9 the responses to interrogatories that we
10 received from your attorney.

11 A. Okay.

12 Q. Before today, have you reviewed
13 these?

14 A. Yes, I did.

15 Q. Okay. I'm going to direct your
16 attention to page number seven, number 11.
17 It says: "Larry," last name unknown.

18 My question is: Is this Larry
19 Callahan?

20 A. Yes.

21 Q. And who is Larry Callahan?

22 A. He was the night manager.

23 Q. And then the next paragraph, 12,
24 um, Selena Seabrooks, is this the person
25 from the EEOC that you said was asking you

1 Suarez
2 this year.

3 Q. And why did you end your job
4 there?

5 A. Because I, I finally put together
6 my resume, and I'm looking for a job based
7 on my background and education.

8 Q. Okay. Why didn't you look for a
9 job based on your background and education
10 before this summer?

11 A. It was very hard to put together
12 my resume. I was mistreated and fired for
13 no reason. Putting in a resume 18 years of
14 experience in Southern, I couldn't face it.
15 So I went to jobs where the only things
16 they asked to me were my driver's license
17 and Social Security number.

18 Q. And in putting your resume
19 together in the summer, right, have you
20 started looking serious for something?

21 A. Yes.

22 Q. Okay. And how have you conducted
23 that search? Tell me what you have been
24 doing to try to find a job.

25 A. Through Robert Half, recruiters.

1 Suarez
2 Q. Okay.

3 A. And I have one current offer,
4 and, and I have one good possibility, like,
5 pending. And I have -- I had a few
6 interviews, but nothing has been finalized,
7 finalized yet.

8 Q. Okay. I think that covers -- so,
9 in interrogatory number six, right, we
10 asked you to give the names of everyone
11 that you have made an application. Okay?
12 And here you listed Uber, Lyft and Walmart.
13 But this is dated May of 2021.

14 A. (Thereupon, the witness nods in
15 the affirmative.)

16 Q. So it sounds like what you are
17 saying to me, that's changed since May of
18 2021, is that correct?

19 A. Yes.

20 MS. CABRERA: I would just ask
21 counsel to supplement interrogatories
22 so that we have an accurate record of
23 Ms. Suarez's mitigation efforts.

24 BY MS. CABRERA:

25 Q. I will direct your attention to

1 Suarez
2 Your response was: "Yes."

3 Plaintiff kept a paper calendar. Plaintiff
4 is not in possession of same as she was
5 specifically instructed by John Wilkinson
6 at the time of her termination that she
7 could not take her calendar with her.
8 Plaintiff left the paper calendar in the
9 possession of Defendant."

10 A. And also I --

11 Q. I'm sorry, let me ask you the
12 question.

13 When you say "paper calendar,"
14 can you, can you describe what you're
15 talking about specifically?

16 A. Yeah, the desktop calendar for
17 that year.

18 Q. Got it.

19 A. And also I have maybe six or
20 seven books from previous years.
21 Everything related, work related.

22 Q. Okay. And do you remember what
23 it was that you wrote on the calendars?

24 A. Work in progress. Meetings.

25 Reviews of, you know, issues, inventory

1 Suarez
2 interrogatory number 16. And there we

3 asked for you to identify anyone you may
4 have seen with regard to any emotional pain
5 and suffering. And the response was
6 "None," that you had not seen anyone. I
7 just want to confirm if that is still the
8 case today.

9 A. It is. It is. I haven't seen a
10 professional here in the United States.
11 But in Ecuador, I seek counseling from my
12 aunt who is a psychiatrist.

13 Q. She is a psychiatrist?

14 A. Yes, she is.

15 Q. Did she prescribe you any
16 medication?

17 A. No, she did not.

18 Q. I would like to draw your
19 attention to interrogatory number 18, and
20 it is on page 18 at the top.

21 A. Yes.

22 Q. We just asked if you kept any
23 notes, diaries, journals or other records
24 of conversations related to your
25 allegations.

1 Suarez
2 issues. Everything work related. And also

3 I kept a digital calendar in my laptop,
4 that it was left at Southern also.

5 MS. CABRERA: Got it.

6 I would ask the plaintiff to look
7 at Exhibit 29.

8 (Thereupon, the document was
9 marked Defendant's Exhibit 29 for
10 identification, as of this date.)

11 THE WITNESS: Yes. Do you have a
12 question about this?

13 BY MS. CABRERA:

14 Q. Have you seen this document before?

15 A. I have.

16 Q. In this case, you're alleging
17 that the company owes you overtime, is that
18 correct?

19 A. Yes.

20 Q. And on Exhibit 29, it indicates
21 that the amount of overtime is \$25,994.84.
22 Do you see that?

23 A. Yes, everything to -- 2017 to
24 2018, yes, I see that.

25 Q. And so how do you -- how did you

1 Suarez

2 calculate this number? How did you come to
 3 \$25,994?

4 MR. MOSER: Objection as to form.

5 THE WITNESS: I did not make the
 6 calculations. If I did, I should have
 7 added ten years working Saturdays and
 8 Sundays with no overtime pay.

9 BY MS. CABRERA:

10 Q. Well --

11 A. But as my attorney said, I was
 12 classified as a manager, so I didn't get
 13 overtime pay. But it changed. I wasn't a
 14 manager anymore. I was an administrator.

15 Q. So, it is your position that
 16 between January 1st of 2017 and up until
 17 the date of your termination, that you were
 18 no longer a manager, you were an
 19 administrator; is that what this
 20 calculation is based on?

21 A. I think from May 2016 I was no
 22 longer a manager. Everything changed.

23 Q. Okay. And so from May 2016 to
 24 April 6th of 2018, how much overtime do you
 25 allege the company owes you?

1 Suarez

2 A. I will have to make the
 3 calculations. I don't know from the top of
 4 my head right now.

5 Q. Okay. Can you share how many
 6 hours you think are owed to you?

7 A. I would say 16 hours per week,
 8 although I was looking -- I was remembering
 9 by the meeting, um, meeting scheduling that
 10 you just gave to me --

11 Q. Uh-huh.

12 A. -- that all the meetings were
 13 scheduled at 7 p.m., 8:30 p.m. I didn't
 14 remember that. I didn't say that, I didn't
 15 tell that to my attorney. That was, like,
 16 way before or after the 6:30 p.m. hour that
 17 I was told that I have to work until.

18 Q. Okay. So, what are you saying?
 19 Were you saying that you would add that to
 20 the 16 hours?

21 A. (Thereupon, the witness nods in
 22 the affirmative.)

23 Q. You would add the half an hour of
 24 each one of those meetings, you should add
 25 that to the 16 hours?

1 Suarez

2 A. Maybe an hour. And there was two
 3 meetings scheduled at 8:30 p.m.

4 Q. And you said 16 hours per week.
 5 Does that cover the weekend?

6 A. Yes.

7 Q. And you were working both days
 8 every weekend?

9 A. No. Just Saturdays. Nobody
 10 worked on Sundays.

11 Q. Got it.

12 A. Only me for ten years.

13 Q. Okay.

14 A. Prior to the WMI administrator
 15 position.

16 Q. And so when you say 16 hours a
 17 week, where is the 16 hours coming from?
 18 I'm just trying to understand.

19 A. One hour or two per day and
 20 Saturday.

21 Q. Okay. Ms. Suarez, have you
 22 suffered emotional distress as a result of
 23 your termination?

24 A. Yes.

25 Q. Can you describe for me the

1 Suarez

2 symptoms of your emotional distress?

3 A. Being unable to work on my resume
 4 made me cry and depressed every time. Not
 5 being -- you know, not being, like,
 6 successful in the eyes of my parents, my
 7 relatives, my friends, was very hard to me.

8 It is very hard for an immigrant
 9 to get a job in an office. Everybody comes
 10 here and cleans houses. It was very
 11 special when my parents, my family,
 12 everybody know that I was not cleaning
 13 houses. I was working in an office. And
 14 that was taken away from me. I couldn't
 15 face it. I couldn't face going to a job
 16 and apply for a management position.

17 I did changes in my life. I
 18 shared my house just to make my mortgage
 19 payments. I couldn't face it. I couldn't.
 20 It is still hard.

21 Q. Aside from not being able to, to
 22 put yourself in a position to go for a
 23 similar job, were there any other effects
 24 on your daily life as a, as a result of
 25 everything you have shared here today that

1 Suarez
 2 happened at Southern Glazer's?
 3 A. I don't know. Like what? Oh,
 4 like, changes in my daily life. Going to
 5 work in a car for Uber is a huge change.
 6 Q. Okay.
 7 A. Going to Walmart and being
 8 invisible is a huge change. And I wanted
 9 to be invisible.
 10 Q. You wanted --
 11 A. And I wanted to be invisible.
 12 Q. Invisible, okay.
 13 A. Yes, those are huge changes.
 14 That's not the way I was. I hope I could
 15 be the same I was, confident,
 16 knowledgeable, firm in my decisions, being
 17 able to make decisions. That was taken
 18 away from me, and it put doubts in
 19 everything I had accomplished until then.
 20 MS. CABRERA: I have no further
 21 questions.
 22 MR. MOSER: I just have a couple.
 23 EXAMINATION
 24 BY MR. MOSER:
 25 Q. I want to draw your attention to

1 Suarez
 2 about me as a manager and my teamwork
 3 and for me was, which was not longer a
 4 reality once I was given the WMI
 5 administration position.
 6 BY MR. MOSER:
 7 Q. At the time that you had the WMI
 8 administrator position, was there an
 9 inventory control manager at Southern?
 10 A. In accounting there was.
 11 Q. And who was that?
 12 A. Tonisha Durant.
 13 Q. Before you became WMI
 14 administrator, what was your title?
 15 A. Inventory manager warehouse.
 16 Q. If the references to your
 17 abilities as a manager had been made to
 18 your work when you were the inventory --
 19 A. Manager.
 20 Q. -- manager warehouse, would they
 21 be accurate in terms of your management
 22 style and abilities?
 23 A. Yes.
 24 MR. MOSER: I have no further
 25 questions.

1 Suarez
 2 Exhibits 25 and 26, if you could take a
 3 look at them together.
 4 Is your signature -- let's talk
 5 first about Exhibit 25.
 6 Is your signature on this
 7 document?
 8 A. No, it's not.
 9 Q. How about on 26, is your
 10 signature on that document?
 11 A. No, it's not.
 12 Q. Do you recall seeing either one
 13 of these documents before today?
 14 A. No, I didn't.
 15 Q. Um, counsel asked you several
 16 questions about whether these particular
 17 reviews were accurate with regard to your
 18 duties as WMI administrator. Um, are these
 19 accurate reviews as to your duties as WMI
 20 administrator?
 21 MS. CABRERA: Objection.
 22 You can answer, but I believe
 23 that mischaracterizes my question.
 24 THE WITNESS: The ones that were
 25 pointed out were not because it talks

1 Suarez
 2 MS. CABRERA: I'm thinking.
 3 THE REPORTER: No problem.
 4 FURTHER EXAMINATION
 5 BY MS. CABRERA:
 6 Q. I want to direct your attention
 7 to Exhibit 25, please, page 3 of 5.
 8 A. Uh-huh.
 9 Q. At the bottom, where it says:
 10 "Comments by John Wilkinson, Maria is very
 11 organized and plans very well. She's very
 12 effective at scheduling her staff and
 13 managing the processes that they need to
 14 perform on a daily basis."
 15 So are you, are you telling us
 16 here today that this is a lie, that this is
 17 false, this is a false statement about you
 18 in 2016?
 19 A. For the first part of 2016, I
 20 think it's true.
 21 MS. CABRERA: I have no further
 22 questions.
 23 THE VIDEOGRAPHER: The time is
 24 5:38 p.m. We are going off the record.
 25 This is the end of media number eight

1 Suarez
 2 in today's deposition of Maria Suarez.
 3 Thank you.
 4 THE REPORTER: Do you want a copy
 5 of the transcript?
 6 MR. MOSER: Yes. Yes.
 7 (Time noted: 5:38 p.m.)
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1 Suarez
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 9 MARIA SUAREZ
 10
 11
 12
 13 Subscribed and sworn to
 14 before me this day
 15 of 2021
 16
 17 _____
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1 CERTIFICATE
 2 STATE OF NEW YORK)
 3) ss.
 4 COUNTY OF NEW YORK)
 5
 6
 7 I, Jessica R. Taft, a Shorthand
 8 Reporter and Notary Public within and for
 9 the State of New York, do hereby certify:
 10 That MARIA SUAREZ, the witness whose
 11 deposition is hereinbefore set forth, was
 12 duly sworn by me and that such deposition is
 13 a true record of the testimony given by such
 14 witness.
 15 I further certify that I am not
 16 related to any of the parties to this action
 17 by blood or marriage and that I am in no way
 18 interested in the outcome of this matter.
 19
 20
 21
 22 JESSICA R. TAFT, RPR, CM
 23
 24
 25

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